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AN
ACCOUNT
OF
THE TRIAL
OF
THOMAS FYSHE PALMER,
UNITARIAN MINISTER, DUNDEE,
BEFORE THE
CIRCUIT-COURT OF JUSTICIARY, AT PERTH,
On the 12th and 13th Days of September, 1793.
FOR SEDITION.

Speak of me as I am ;
Nothing extenuate, nor set down aught in malice.

P E R T H :

PRINTED BY R. MORISON JUNIOR,
FOR R. MORISON AND SON, BOOKSELLERS, PERTH; AND
VERNOR AND HOOD, BIRCHIN-LANE, LONDON.



ADVERTISEMENT.

THIS Work is submitted to the Public Eye, with considerable apprehension. Altho' the Editors have received very liberal Assistance in the Publication of a chaste Copy of the following Trial; yet, as the subject will be considered in two very different points of view, by two very different classes of readers, they fear it will be impossible to avoid censure from every quarter. It was not intended that every word which was delivered should be printed *verbatim*; this would have served no other purposes than needlessly to swell the pamphlet, and most likely tire out the reader. So that although the publishers presume, few material circumstances will be found to have been omitted, yet they confess it has rather been their study to omit a sentiment or expression altogether, than to misrepresent it; and they are confident that the pleadings of Counsel on both sides have had equal justice in their hands. If, notwithstanding, any misapprehension of whatever kind, shall have crept into any corner of the following sheets, they intreat the candid indulgence of the public, and still more of the person whose sentiments they may have unwillingly, mistated.

Perth Sept. 17, 1793.

About Nine o'Clock in the Morning, on Thursday the 12th September, 1793, in the Circuit-Court of Justiciary, held at Perth, by Lords Eskgrove and Abercrombie,—The Trial of T. F. Palmer commenced, by his being desired to attend to the following

INDICTMENT.

INDICTMENT.

GEORGE, &c. WHEREAS it is humbly meant and complained to us by our right trusty ROBERT DUNDAS, Esq; of Arncliffe, our Advocate for our interest, upon THOMAS FISCHER PALMER Clergyman, sometime residing in Dundee, and commonly designed Unitarian Minister: THAT, by the laws of this and of every other well governed realm, the wickedly and feloniously WRITING or PRINTING, or the causing to be WRITTEN and PRINTED, any seditious or inflammatory writing, calculated to produce a spirit of discontent in the minds of the people against the present happy Constitution and Government of this Country, and to rouse them up to acts of outrage and violence, by insidiously calumniating and misrepresenting the measures of Government, and falsely and seditiously justifying and vindicating the enemies of our country, with whom we are at open war: AS ALSO the wickedly and feloniously DISTRIBUTING and CIRCULATING, or the CAUSING to be distributed and circulated, any such seditious and inflammatory writing, are crimes of an heinous nature, dangerous to the public peace, and severely punishable: YET TRUE IT IS, AND OF VERITY, That the said Thomas Fischer Palmer,

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above

above complained upon, is guilty actor, or art and part, of all and each, or one or other of the foresaid crimes: IN SO FAR AS, sometime during the months of July 1793, or of June preceding, or of August following, the said Thomas Fische Palmer, having been present at a Meeting held at Dundee, and county of Forfar, which Meeting denominated itself, "A Society of the Friends of Liberty," or bore some such name, and of which Meeting or Society, the said Thomas Fische Palmer is or was a Member; he did then and there put into the hands of George Mealmaker, Weaver in Dundee, a manuscript or writing, of a wicked and seditious import, in the form of an Address to *their Friends and Fellow Citizens*; which manuscript or writing was sometime during the months aforesaid, at Dundee aforesaid, or at some other place to the Public Prosecutor unknown, wickedly and feloniously written or composed by the said Thomas Fische Palmer, or by him caused to be composed or written; and which manuscript or writing, after it had undergone several alterations, suggested by the foresaid meeting, was, by desire of the said meeting, again put into the hands of the said Thomas Fische Palmer, in order, that it might, by his means, be published, printed, and circulated. And the said Thomas Fische Palmer did thereafter print, or at least did wickedly and feloniously, sometime during

ring the months aforefaid, caufe to be printed at Edinburgh, or fome where elfe to the Public Profeutor unknown, the faid feditious and inflammatory writing whereof the title and tenor follows :

Dundee, Berean Meeting Houfe, July, 1793.
At a GENERAL MEETING of the FRIENDS of LIBERTY, they unanimously refolved to publifh the following ADDRESS to their Fellow Citizens.

‘ Friends and Fellow Citizens,

*‘ You, who by your loyal and fteady conduct in
‘ thefe days of adverfity, have fhown that you are
‘ worthy of, at leaft, fome fmall portion of liberty,
‘ unto you we addrefs our language and tell our
‘ fears.*

*‘ In fpite of the virulent fcandal, or malicious ef-
‘ fects of the people’s enemies, we will tell you
‘ whole truths, they are of a kind to alarm and
‘ aroufe you out of your lethargy. That portion
‘ of liberty you once enjoyed is faft fetting, we fear,
‘ in the darknefs of defpotifm and tyranny! Too
‘ foon, perhaps, you who were the world’s envy,
‘ as poffeff of fome fmall portion of liberty, will be
‘ funk in the depth of flavery and mifery, if you
‘ prevent it not by your well timed efforts.*

‘ Is not every new day adding a new link to our
 ‘ chains? Is not the executive branch daily seizing
 ‘ new, unprecedented and unwarrantable powers?
 ‘ Has not the House of Commons (your only secu-
 ‘ rity from the evils of tyranny and aristocracy)
 ‘ joined the Coalition against you? Is the election
 ‘ of its members either fair, free, or frequent? Is
 ‘ not its independence gone while it is made up of
 ‘ pensions and placemen?

‘ We have done our duty, and are determined
 ‘ to keep our posts, ever ready to assert our just
 ‘ rights and privileges as men, the chief of which
 ‘ we account the right of universal suffrage, in the
 ‘ choice of those who serve in the Commons’ House
 ‘ of Parliament, and a frequent renewal of such
 ‘ power.

‘ We are not deterred or disappointed by the de-
 ‘ cision of the House of Commons concerning our
 ‘ Petition. It is a question we did not expect
 ‘ (though founded on truth, and reason) would be
 ‘ supported by superior numbers.—Far from being
 ‘ discouraged we are more and more convinced
 ‘ that nothing can save this nation from ruin, and
 ‘ give to the people that happiness which they have
 ‘ a right to look for under Government but a Re-
 ‘ form

‘ form in the House of Commons founded upon
 ‘ the eternal basis of justice, fair, free, and equal.

‘ *Fellow Citizens,*

‘ The time is now come, when you must either
 ‘ gather round the fabric of Liberty to support it,
 ‘ or, to your eternal infamy, let it fall to the ground,
 ‘ to rise no more, hurling along with it every thing
 ‘ that is valuable and dear to an enlightened people.

‘ You are plunged into a War by a wicked Mi-
 ‘ nistry and a compliant Parliament, who seem care-
 ‘ less and unconcerned for your interest, the end
 ‘ and design of which is almost too horrid to relate,
 ‘ the destruction of A WHOLE PEOPLE MERE-
 ‘ LY BECAUSE THEY WILL BE FREE.

‘ By it your commerce is fore cramped and al-
 ‘ most ruined. Thousands and ten thousands of
 ‘ your fellow citizens, from being in a state of pro-
 ‘ sperity, are reduced to a state of poverty, misery,
 ‘ and wretchedness.—A list of bankruptcies, une-
 ‘ qualed in any former times, forms a part in the
 ‘ retinue of this Quixotic expedition; your taxes,
 ‘ great and burthenfome as they are, must soon be
 ‘ greatly augmented; your treasure is wasting fast;
 ‘ the blood of your brethren is pouring out, and
 ‘ all

‘ all this to form chains for a free people, and even-
‘ tually to rivet them forever on yourselves.

‘ To the loss of the invaluable rights and privi-
‘ leges which our fathers enjoyed, we impute this
‘ barbarous and calamitous war ; our ruinous and
‘ still growing taxation, and all the miseries and op-
‘ pressions which we labour under.

‘ *Fellow Citizens,*

‘ The friends of liberty call upon you, by all that
‘ is dear and worthy of possessing as men ; by your
‘ own oppressions ; by the miseries and sorrows of
‘ your suffering brethren ; by all that you dread ;
‘ by the sweet remembrance of your patriotic an-
‘ cestors ; and by all that your posterity have a right
‘ to expect from you, to join us in our exertions
‘ for the preservation of our perishing liberty and
‘ the recovery of our long lost rights.’

FURTHER, the said Thomas Fische Palmer did,
some time during the months of June or July afore-
said, wickedly and feloniously distribute and circu-
late, or cause to be distributed or circulated, in
Dundee, Edinburgh, and elsewhere, a number of
copies of the said seditious and inflammatory writ-
ting, printed as aforesaid. PARTICULARLY,
the said Thomas Fische Palmer did, some time in,
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the month of July aforesaid, transmit, or cause to be transmitted or delivered, to William Skirving of Strathruddie, residing in Edinburgh, 100 copies, or thereby, of the said seditious and inflammatory writing, to be by him distributed and circulated; and which accordingly, or the greatest part thereof, were by him distributed and circulated. AS ALSO, the said Thomas Fische Palmer did, some time in the month of July aforesaid, deliver to each of Edward Leslie and Robert Miller, both stationers and booksellers in Dundee, a number or parcel of the said seditious and inflammatory writings, to be by them distributed and circulated. AS ALSO, the said Thomas Fische Palmer did, on the 20th of July aforesaid, or upon one or other of the days of that month, transmit to James Smiton wright in Newburgh, and county of Fife, 20 copies, or thereby, of the said seditious writing, to be by him distributed and circulated; and which accordingly were distributed and circulated by the said James Smiton among several persons in the neighbourhood. AND the said Thomas Fische Palmer having, upon the 2d and 3d days of August 1793, been brought before Harry Davidson, Esq; Sheriff-substitute of the shire of Edinburgh, he did in his presence emit a declaration, which the said Thomas Fische Palmer having refused to subscribe, was signed by the said Harry Davidson. WHICH declaration, together with

with seven copies of the above mentioned seditious and inflammatory writing, whereof three of them attested on the back by the signature of the said Harry Davidson, and others; two of them so attested by Alexander Riddoch, Esq; Provost of Dundee, and others; another of them so attested by Thomas Horsburgh, Sheriff-substitute of Fife, and others; and another copy of them attested on the back by William Baine servant to James M'Duff shoemaker at Bridge of Turret, and others; together with a manuscript copy of the said seditious writing, attested by the said Harry Davidson, Alexander Riddoch, and others: AS ALSO, two pieces, or parts, of two letters, wrote by the said Thomas Fische Palmer, and found in the possession of Alexander Morrin grocer and spirit-dealer in Edinburgh, and attested by the said Alexander Morrin, Harry Davidson, and others; together with the scroll of a letter, seemingly addressed to the said Thomas Fische Palmer by the said Alexander Morrin, and found in the custody of the said Alexander Morrin, and attested by his subscription and that of the said Harry Davidson aforesaid; together with three other letters, one dated the 3d of July 1793, signed with the initials of T. F. P. and addressed to 'Mr Ellis, at James Ellis's staymaker, 'Chapel Shade, Dundee,' attested by the signature of the said Alexander Riddoch, and others; another

ther, dated 'Dundee, July 9, 1793,' signed T. F. 'Palmer,' and addressed 'to Mr Skirving, opposite 'Old Assembly Close, Cowgate;' and another, dated 20th July 1793, signed T. F. Palmer, but without any address, and beginning 'My dear Friend;' which two last letters above mentioned are respectively attested by the signature of the said Harry Davidson, and others; as also, a letter, signed James Ellis, dated Paisley, Mar. 18. and addressed to 'James Ellis staymaker, above St Francis's Well, 'Dundee;' which letter is attested by the signatures of Thomas Farquharson and William Moncrieff, together with a book, attested by the subscription of William Airth weaver in Dundee, will all be used in evidence against the said Thomas Fische Palmer; and will, for that purpose, be lodged in due time with the clerk of the Circuit Court of Justiciary, before which he is to be tried, that he may have an opportunity of seeing the same. AT LEAST, times and places foresaid, the said seditious and inflammatory writing was wickedly and feloniously COMPOSED and PRINTED, or caused to be composed and printed; as also, wickedly and feloniously DISTRIBUTED and CIRCULATED, or caused to be distributed and circulated, in manner foresaid; and the said Thomas Fische Palmer, above complained upon, is guilty actor, or art and part, of all, and each, or one, or other of the foresaid crimes. ALL

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WHICH,

WHICH, or part thereof, being found proven, by the verdict of an assize, before our Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Circuit Court of Justiciary to be holden by them, or any one or more of their number, in the Criminal Court-house of Perth, the 12th September next to come, the said Thomas Fische Palmer OUGHT to be punished with the pains of law, to deter others from committing the like crime in all time coming. OUR WILL IS, &c.

The Indictment being Read :

Court. Are you Mr Palmer, Pannel at the Bar, guilty or not guilty of the Charge libelled in this Indictment.

Pannel. I am not the Person, my Lords.

Mr Hagart said, The case to be argued that day was of the last importance. It directly concerned the liberty of the Press, the most invaluable privilege of a British Subject. He sincerely wished that the part allotted to him had been in better hands. Circumscribed in point of time; and from his then situation, not having sufficient access to authorities, nothing but a sense of what he considered Professional duty, or the pressure of a Circuit Court could have induced him to have taken charge of conducting even a part of a cause so extremely important.

But

But even in these circumstances, and under those disadvantages, he said, with the indulgence he knew he would receive, and from the assistance, which he looked for from the Court, he trusted, that if certain preliminary objections he had to offer in bar of the trial, should be over-ruled, that he would be able fully to make out this proposition he meant to support, which was, that the Indictment as laid was not relevant.

In the first place the name of the person Indicted is *Thomas Fische Palmer*.—It is true there is an ancient family in Essex of that name. But to that family, said he, his Client, did not belong, His family was altogether a different one, and their name differed in no less than two letters from the name in the Indictment—Their name had been always spelt *Fyshe*. So that the name in the Indictment did not apply to his Client. That if any thing was more important than another, it undoubtedly was, that the designation should be correct, and that such was the view in which the Courts both in England, and in this country had considered the matter, a variety of instances might be enumerated. Nay even in the designation of witnesses, so much had the Court attended to minute accuracy, and which on all hands must be admitted to be necessary in Criminal procedure, that an error in a single letter had been held sufficient to cast a Witness.

Thus in a Case which came before the Court, in August 1791, the objection was sustained that the name was written *Law* instead of *Low*. Thus also in the Case of Wilton, in 1790, *Adderfon* instead of *Anderson*. Thus also in the noted case of Deacon Brodie,—(See *Deacon Brodie's Trial*) And in a variety of the other instances well known to the Court. He wished the Record was now on the Table, that he might survey those Cases; But he trusted to the candour of the Prosecutor, that he would admit they were as stated, as he must know they were derived from a source where both of us, during the course of last Session, were endeavouring to imbibe principles of Criminal Justice. He said he alluded to Mr Hume's Lectures, whose name was an authority of itself. Indeed without any of these Precedents, as the Regulations, 1672, required that the true name of the Pannel be inserted, the Indictment cannot be held as at all an Indictment, if it is omitted.

Mr Hagart then produced a certificate of the spelling of Mr Palmer's name from the parish church register, shewing the true name to be what he had mentioned. His Client also being a man of literature, he produced one of his publications wherein the name corresponded with that in the certificate. He also stated that the arms of the family in Essex, and that of his Client's family were entirely different.

Here

Here *Mr MacConnachie*, (assisting Counsel for the Crown) enquired whether *Fyshe* was Mr Palmer's christian or surname.

Mr Hagart said, this was an unnecessary question, as *Fyshe* was a part, and a material one, of Mr Palmer's name, in the understanding of the Prosecutor himself, otherwise he would not at all inserted it. If however the question was for Mr MacConnachie's own information, he had to tell him; that *Fyshe* was properly the surname of the family, as Mr Palmer's father was the first who had taken the additional name.

Mr Hagart then proceeded to state a second Objection, which, he said, he could not doubt would be found to be unanswerable by the Court, in whatever manner they might dispose of his first. By the regulations of 1672, it was indispensably necessary, that the Pannel should be served with a just and true copy of the Indictment. In the copy of the Indictment served upon the Pannel in this case, one material deviation occurred from the Copy now read, not in word only, but in word and sense, (here the Clerk read the following quotation from the Indictment) "Unto you we address *our* language." In the copy served upon Mr Palmer it runs "Unto you we address *your* language"—Here the difference is palpable; if Mr Palmer, or rather the writer of this hand-bill, has only produced

their

their own language to them, and if the language be indictable, why are not the authors and not my Client brought to this bar? or at any rate, my Client cannot answer to a charge in the record, of which he has got no notice by his copy of service. On this ground as well as the former, he felt entitled to plead, That this Indictment could not apply to the Pannel at the Bar.

Mr MacConnochie said, he could not hesitate a moment in presuming, their Lordships would find these objections to this Indictment of no manner of consequence. This trifling deviation in the spelling could not possibly be of any consequence when the pronunciation is exactly the same, for although Mr Hagart had strained his voice to the utmost pitch, he did not believe that he had made the pronunciation in the least different, and we could not suppose that the public Prosecutor could have corresponded with Mr Palmer, so as to have known the precise letters he used in spelling his name; he had spelt it so as exactly to hit the pronunciation, which is not in any degree affected by the difference. It would be strange indeed, could the course of justice be stopt for such a cause. He had adduced cases indeed, and those from *very great authority*, his own manuscript notes, but they do not affect the case in point; Law and Low are names totally and completely different, and in such a case witnesses would
be

be falsely cited, and persons entirely different from those intended might be adduced, were not such errors in designations attended to. Mr Haggart's second Objection is, if possible, still more insignificant: suppose the Public Prosecutor should pass from the erroneous line altogether, the case would not be affected, as he presumed he did not mean to found upon it. This, would introduce strange Doctrine into the Court, that an Indictment should be rendered ineffectual for such an evident, trivial, and unmeaning error in transcribing. The spirit of the Law, he said, aims at substance, not merely words.

King's Advocate, Mr Burnet, said he had only to add to what had just now been stated, that although in two letters there is a mistake, yet there is no error in the designation of the person; the name is the same; his employment, &c. so explicitly stated as to occasion no difference as to the person intended: he alluded to the manner in which Mr Palmer declined to sign his written evidence, and proved that Mr Palmer has never yet given the public the proper spelling of his name; so that it was impossible for the Public Prosecutor to be more correct; and it would be a strange thing indeed, if the Pannel was to be allowed to avail himself of perhaps an intentional omission; besides the family name is not Fyshe, but Palmer. Indeed different modes of spelling names

were

were very common: suppose the Pannel's name had been Stewart, some spell it with the vowel *u*, some with a *w*, would such a difference be admitted while the name is in fact the same. He could adduce many names in like manner; Smith, Smyth; Millar, Miller; Abercrombie, Abercromby; Burnett, Burnet. As to the disconformity in the copy of the Indictment served, the objection was so trifling as scarce to require an answer; had the Pannel been indicted for murder or robbery, and had the Record copy borne such, while the copy served upon the Pannel charged sedition, such an error would materially affect the cause. Here the difference is of no consequence. In the law of England such quibbling distinctions were sometimes attended to, but the law of this Country disallows them.

Mr Hagart said, The Answers the learned Counsel had given were such as he expected, but very far from sufficient; they had only given OPINION for AUTHORITY. And as the authorities had not been denied, they must be held to be admitted by the Advocate-Depute. As to what had been said by Mr MacConochie, of the pronounciation being the same, no attention could possibly be paid to it, as if pronounciation was to regulate Judicial accuracy, that procedure would vary with every different dialect, and indeed be extremely inaccurate. It is impossible that Gentleman can himself be serious in maintain-
ing

ing such a proposition, and at any rate, it can never be adopted. As to the attack which Mr MacConnachie had made *on his tone of voice*; he said he did not expect the time had just yet been come, when he was to have been Indicted on that head, much less could he have expected Mr MacConnachie would have been the Indicter.

As to the observation of the Advocate-Depute, that the precision of the designation ought to do away the inaccuracy of the want of the two letters, the observation must be of as little weight as that of his assisting Counsel; both name and designation ought to have been correct; and he fell into a mistake in matter of fact; when Mr Palmer was formerly examined, he signed his name at length. And upon the whole he hoped, as no sufficient answer had been made to any of the objections, that both of them would be sustained.

Lord Esgrove said, If the Pannel had not been properly served with the Indictment, the error was material. We had in this country as fair a mode of Trial as any in the World, and any real objection would certainly be sustained; but if the first objection is sustained, what is the consequence; only to put off the Trial 15 days longer, a mere matter of moonshine, which can serve the Pannel no good purpose. The instances Mr Hagart had adduced were only those of Witnesses, which are materially different. They are

brought into Court, and if improperly designed, say Thomas for James, or any such mistake, an improper person is produced, so that the greatest attention is necessary in the summoning of Witnesses. In this case the identity of the Pannel is proved both by name and designation. But even were the cases of the same nature, they were not similar. Every man in court knows the material difference between the names Law and Low. We have heard of the famous Law that went from France to the Mississippi, and we know him to be a different man from Provost Low of Brechen. If this objection were sustained, inexplicable difficulties would occur in the practice of the Courts; he knew of Stewarts, his own relations, who differ from one another in the spelling of their name, agreeable to what Mr Burnet had advanced. In this case is not the pronunciation exactly the same; Nay, is not the pronunciation of *y* and *i* in such cases very generally alike; whether Mr Palmer spells his name with a *y* or an *i* still is he not a *fish*? It is very customary to write *ie* for *y*; it is so in the case of Abercromby; his own name, some, particularly in England, spell it Ray, some Rea, and others Rae; yet still is it the same name, so that the cases mentioned are not in point; the Public Prosecutor has brought him named right in pronunciation at least, and Mr Hagart mentions no person of the same name by whom a mistake could possibly happen; he
has

has brought us no person of the name of Fyffe Palmer who also resides in Dundee, and is an Unitarian Preacher. He had many writings before him signed T. F. Palmer, which plainly show that Palmer is the surname of the person indicted. There is another circumstance—they talk of a signed declaration. He saw no declaration but one which it seems the Pannel refused to sign—(Here Mr Hagart suggested to the Bench that this refusal was because he had been illegally apprehended)—Illegally! He was brought there legally for examination; and his refusal to sign, appears rather to me to favour the supposition that he did so in order to introduce this quibble. But farther, under this name so spelt he found bail—under this name he appears here as cited this day: If he is misnamed why came he here; his presence is an acknowledgement of the name. His Lordship found no fault with stating such objections, but for this objection he saw no real ground. I may also add, said His Lordship, that even were it necessary to have evidence upon the manner in which he spells his name, such certificates as that produced, brought, we know not whence nor from whom, could not be admitted; far less his name on the title of this publication of his, denying the divinity of Jesus Christ. As to the second objection, there is no error, either in the alleging of the Crime or the Narrative, but merely

in transcribing the Hand-bill Libelled, in omitting the letter y. But this is not to be founded upon; it is an evident error and makes the reading nonsense; and even should this copy be erroneous, how will they get over the printed Hand-bills themselves, which are lodged with the Clerk of Court agreeable to form. His Lordship's opinion therefore was, that both objections ought to be repelled.

Lord Abercrombie Perfectly agreed with what His Lordship had just stated, nor did he see any ground for either objection. Had the pannel been cited here even as a witness, and designed as he here is, he could have seen no propriety in the objection, even in that case which Lord Eskgrove had shown would have been different. As to the second objection, it respects a mere recital, and can be of no manner of moment, while the original copies referred to are produced.

The Court therefore repelled both objections.

Lord Abercrombie. Now, Mr Palmer, these objections repelled, are you guilty or not guilty?

While Mr Palmer seemed rather to hesitate, *Mr Clark*, one of his counsel, called out to him to say, not guilty.—Mr Clark's conduct was disapproved of by the Court.

Mr Palmer then pled, not guilty.

These preliminary objections being over-ruled,

Mr Hagart said, he now proceeded to others of greater importance, and which he said he trusted could

could not fail to be sustained. In the first place, he would show that the Indictment itself was altogether informally and improperly laid; and in the 2nd place, even if it should be held to be proper and accurate, he would show, that the publication which was now arraigned, was neither libellous nor seditious. Mr Hagart then observed, that so scrupulous had our forefathers been, that there should be no infringement, in their established right and invaluable privilege, of trial by a Jury, that while in every other instance, they permitted form to give way to substance, yet, so zealous sticklers had they been for this bulwark of their liberty, that they had permitted no innovation to be made. The same essentials which are laid down in the 80th Chapter of the Quoniam Attachiamenta, as requisite in a Criminal Indictment, are at this day held requisite. As their Lordships knew, the Syllogistic form had been uniformly adopted. In the major proposition, there was contained, the description of the particular crime meant to be charged; and in the minor proposition, there was stated, facts and circumstances, by which that crime was made out.

Now, said Mr Hagart, let us see what the crime is, that is stated in the major proposition of the Indictment before the court. It is, "The wickedly
 "and feloniously writing or printing, or the causing
 "to be written or printed, and publishing any se-
 "ditious

“ditious or inflammatory writing, calculated to pro-
 “duce a spirit of discontent in the minds of the
 “people, against the present happy Constitution
 “and Government of this country, and to rouse
 “them up to acts of outrage and violence, by insidi-
 “ously calumniating and misrepresenting the mea-
 “sures of Government, and falsely and seditiously
 “justifying and vindicating the enemies of our coun-
 “try, are crimes of an heinous nature, &c.” It will
 be remarked, that the leading and chief feature in
 this general description, is the alledged dispersion
 of a seditious writing, *against the Constitution*;—Now
 again, said he, let us see if or not, in the paper li-
 belled on, there is any such attack on the Constitu-
 tion?—He read the whole paper, in which al-
 though he admitted there was free and censorial
 strictures on the house of Commons, and Executive
 Government; yet that was no attack on the Con-
 stitution, which was made up of King, Lords and
 Commons. It followed, he contended, that the
 Syllogism was not complete, and unless the Court,
 was in this instance, to dispense with the best estab-
 lished form, known in the law of this country,
 it was impossible any trial could proceed on the
 present Indictment.

But, said Mr Hagart, this Indictment is still far-
 ther materially defective. The paper which is ar-
 raigned, has already been admitted not to be alto-
 gether

gether libellous, or at least the Senior Counsel for the Crown has said, that there was one passage which *he imagined* was not to be founded on. If so, it became the prosecutor specially to point out those passages, or inuendoes, by which the crimes libelled were meant to be made out. Without this, the pannel could not possibly shape his defence to meet those particular passages which, at the time of trial, the prosecutor might chuse to select. Here no one passage more than another was pointed out. But the Pannel, most improperly, was called upon, not only to vindicate what was wrong, but to justify what was admitted to be right. If, however, this inaccuracy was also to be got over, he trusted he would be intitled, as well as the prosecutor, to take advantage thereof, in the remaining and most important objection.

This leads me, in the second place, to observe, that the Libel, as laid, is not relevant; and here, he contended, his Client must have the same right which the prosecutor has, of taking no particular passage, but a complex view of the whole that is written. Now, on calling to recollection for a moment, the general opinion, which, for a long time, has been prevalent, of the necessity of a Parliamentary Reform, and what has been the general tenor of the many petitions presented to the House of Commons, for attaining that object, who can doubt, that the
object

Object of the paper in question was entirely directed to that end. It is addressed wholly to those of a *steady* and *loyal* conduct, and expresses fears and alarms. It details a list of grievances, suggests "a reform in the "House of Commons, founded upon the eternal basis "of Justice, fair, free, and equal," and calls on the Friends of Liberty, to join in the recovery "of their "long lost rights." But is there any thing in all this which can be termed libellous? It is true, that the language is, in particular passages, firm and nervous, and in one passage, the grievances may perhaps appear exaggerated, as in another, the fears, it is hoped, are ill founded. But what then? Those very fears shew the determined attachment of the Berean Association to the Constitution and Government, and the particular expressions made use of, as immediately will be shewn, are such as immemorial usage warrants, and the best authorities support. In writings of any kind, if particular passages only are selected, it is an easy matter to find out the appearance of exceptionable matter, as any person may satisfy himself, by taking to pieces any part of a political work. But as the liberty of the Press, abhorred the lash of an imprimative's rod, it was from the whole scope of a writing, explained by the time, place, and circumstances, and impression, under which it was written, by which alone it was to be interpreted. He said, in arguing on the relevancy,

as he now was, he was obliged to suppose his Client the author of the publication in question, but it would that day appear, if the evidence should be adduced, who the real author was. It would appear the publication was composed of detached sentences ciked together from Newspapers, the production of a Journeyman weaver, who by this very harmless, or certainly well meaning occupation, was supposed very seriously to have assailed our Constitution and Government.

Mr Hagart stated, that he had admitted the publication in question contained some strictures and animadversions on the House of Commons, and implied censure on the conduct of the executive government; but who could maintain that this was not warranted in the liberty of the Press, and by the first principles of our government? Who could deny that the custom was immemorial and inveterate? Such censures were not only not blameable, but praise-worthy and meritorious. They compelled unworthy representatives, and bad ministers, to become good, or paved the way to removal or punishment, if they continued to be bad.

But farther, not only is the general scope not objectionable—if even the apparently most exceptionable passages are to be culled, my Client would not commit himself by saying they are warranted by the liberty of the Press, as defined by very high authorities,

itics, and of much stronger language, he certainly can point out both, in parliament, and out of it, innumerable examples. As the publication bears, it was resolved on, at a General Meeting of the Friends of Liberty met at the Berean Meeting-house, Dundee; and, first, they address "their Friends and Fellow Citizens, who by their *loyal* and *steady* conduct, in these days of adversity, have shewn, that they are worthy of at least some small portion of Liberty, and unto them they address their language, and tell their fears."—Is there in this any thing seditious? Can a more chaste exordium be imagined for the purpose, for which they were assembled?—They had petitioned Parliament, but their Petition was refused, and their purpose was, to rouse up others to join them in a second Petition, by whose united efforts they hoped their Petition would be received, and as they believed, whether right or wrong is of no consequence, the Constitution would be saved.

And, After prefacing that they had been *scandalized* for these their efforts, and expressing their fears, that the liberty they once enjoyed was fast setting in darkness of despotism and tyranny, they add, "Perhaps you who were the World's Envy, as possessed of some small portion of liberty, will be sunk in the depth of slavery and misery, if you prevent it not by your well timed efforts."

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The fear which is here expressed, I hope as much as any one, is ill founded, but what then, there is surely nothing seditious in expressing those fears; on the contrary, does not this strongly mark the attachment of the association to the Constitution? If they had not had a sincere attachment they could have had no such serious fear. If too there was really sedition in expressing their fears, is not the whole passage guarded by the word *perhaps*. It must be unnecessary to enlarge farther on this passage, as it is impossible to be maintained that there is any thing like what ought to be construed sedition in it. Is there the shadow of any thing like overturning the Constitution, or resisting any established authority?

3dly. "Is not every new day adding a new link to your chains?" The obvious meaning of this passage must also supercede the necessity of enlarging on it. It is the Common Cant expression for new Taxes, extension of the Excise Laws, or new burdens of any kind, and is surely very harmless. But the associators at the Berean Meeting House had perhaps other fears suggested to them by a speech of Mr Michaelo Angelo Taylor's, in the House of Commons, inserted in the Star, 23d February last, where he very forcibly points out the inexpediency of the plan of Erecting Barracks, all over the kingdom, which was then in agitation. (Here Mr Haggart read his speech) This Barrack system was not

defeated by Mr M. Angelo Taylor's speech, or with those other able speeches that supported his side of the question. The associators at Dundee had seen barracks afterwards erected at Perth, which was not very distant, and the common report being that other erections of the same kind were to be made in the vicinity of Dundee, they had surely as much reason to have their fears and alarms as any member of the House of Commons, and they appeal to the passage which has been read, that their fears are more moderately and chastely expressed.

4thly. "Is not the Executive Branch daily seizing new, unprecedented, and unwarrantable powers?" recollect, said he, the uniform language in Parliament, as well as out of it, for 100 years back; remember Dunning's celebrated vote in the House of Commons, which is within the recollection of all of us; "The influence of the Crown has encreased, is encreasing, and ought to be diminished." Did not thus a regular vote of the House of Commons say as much as this Hand-bill says, and was it not proclaimed in all the Newspapers. Let us again, says he, remember Mr Burke's Reform Bill, for taking down that influence, and his speeches on that occasion; Mr Burke was surely a fitter subject of Indictment than Mr Palmer, when he said,

"You would," said he, "have the court deserted by all the nobility of the kingdom."

"Sir, the most serious mischiefs would follow from such a desertion. Kings are naturally lovers of low company; they
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"are so elevated above all the rest of mankind, that they must look upon all their subjects as on a level: they are rather apt to hate than to love their nobility, on account of the occasional resistance to their will, which will be made by their virtue, their petulance or their pride." &c. &c.

Mr Hagart continued this Extract to considerable length.

Was this language of Mr Burke thought seditious? No, *it was meant* to enforce a great plan of reformation. The plan was approved, and it was carried; and no prosecution was thought of against Mr Burke. (Mr Hagart then read part of Mr Wharton's speech, when he made his motion on the Constitution, and which contained the essence of all that was said in the hand-bill.) When such language is used in the British Senate, and circulated in Newspapers and pamphlets, through every corner of the kingdom, is the Pannel to be prosecuted, or is a Society to be blamed, for speculative opinions in matters of Government? there is no overt act of sedition alledged. What is the language in which the grave judge Blackstone condemns the extension of excise laws, he reprobates them, as oppressive in the highest sense, "nay hardly compatible with the liberty of any nation called free;" when we are roused to complain to Parliament on that head, no wonder strong language is used, when now, without much exaggeration, it may be said, almost every thing we eat or drink, comes through the hands of the Excise Officers? With all this language then from Parliament, Burke, Blackstone, &c. the language in this Hand-bill is comparatively moderate,

5thly

5thly. "Has not the House of Commons, your only security against the evils of tyranny and aristocracy, joined the coalition against you?" Permit me, said he, to read an extract from the petition of the Friends of the People in London, to the House of Commons, presented in May last, (the Petitioners offered to prove at the bar of the house, that a few peers had a right to return eighty members,) Again, said he, has it not been often averred, that the Nabob of Arcot himself, returns fourteen members to the House of Commons; the only dispute, if I recollect right, is whether he returns fourteen or seven; is the language of this Hand-bill then to be found fault with, can it be said that eighty members introduced by peers is not a high aristocratical influence. Can it be denied, that members of the Nabob of Arcot, are those of a tyrant? I pray God that petitions and all legal means, said he, may be used till this pestilence in the Constitution is rooted out.

6thly. "Is the election of members either fair, free, or frequent, is not its independence gone, when made up of placemen and pensioners?" This language is also justified from what I have above stated; if Peers interfere—if an Indian Nabob interferes, are not all such interferences monsters in the Constitution? Strong language may and must be used. (Here Mr Hagart again read extracts from the Morning Chronicle and Edinburgh Gazetteer)

Is then, said he, such liberty of speech lawful in Newspapers, and unlawful in handbills? No, nothing either libellous or seditious can be attached to it. Those whose chief return from their members of Parliament are their speeches, are well entitled to see them.

7thly. " We have done our duty, and are determined to keep our posts, ever ready to assert our just Rights and Priviledges, as men; the chief of which we account the right of universal suffrage, &c." As to the question whether the people ought to enjoy the right of universal suffrage or not, it was not his province, he said, at present to enquire; but is not every man entitled to form an opinion on this subject? and one thing at least was clear, that they had the same claim to suffrage as Burgeses, as I, and I believe a majority of Landholders in Scotland have, when we contend, that £ 100. Scots in Land ought to be the qualification, and which at this moment we are all Associating or Petitioning for and expect. (Here Mr Hagart read extracts from the Duke of Richmond's Letter to Colonel Sherwood of the Irish Volunteers, and from the Meeting in the Thatched House Tavern) His Grace expressly says, that he expects no good to arise from any other quarter but from the People at large, and contends *for universal representation*. There was neither Libel nor Sedition supposed, when this came from the Duke of Richmond

mond. In the Meeting, too, at the Thatched House Tavern, where Mr Pitt and a great many high Characters attended, he said, that the purpose of that Meeting was to consider the necessary steps for obtaining Parliamentary Reform, as a motion recently made by Mr Pitt on that subject, had been lost. They therefore recommended associations, all over the Country, which accordingly took place in an astonishing manner; not less than 600 Noblemen and Gentlemen assembled at York, and their example was followed by 29 Counties. The Petitions of these Associations procured redress, by stopping the American War; while Burke's Bill produced the Reform. In some Counties, they proposed to bind their Members by oath to vote for Reform. Every man was at this time called to associate; and addresses from associations were never supposed libellous. Since that time, Petitions and Addresses had been still more frequent. In 1784, a Petition from the Association of Dundee would not have been rejected.

They next stated, he said, our being plunged into a War, "the end and design of which was to destroy a whole people, because they willed to be free. This was a strong opinion expressed as to the War; but he could show others as much so. It behoved every man to acknowledge, that the war had occasioned violent debates in Parliament, and the
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very words of the Minister himself might lead these Boreans to fear that it might be continued, till what were called French opinions were totally eradicated. At the original French Revolution, I may say all good men rejoiced; the French have gone far indeed; but many people think the war is carried far also. He mentioned that when Mr Pitt debated upon the war, he enlarged on the causes of it, viz. the *principles* of France; and although he at first only threw out that till these were totally subdued, we would contend with them till the latest hour of our lives. He afterwards said, he would not pledge himself, but he might interfere with their internal Government. This Mr Hagart said, certainly supposed we were to interfere with the internal and fundamental Government of France; and therefore, that the Meeting at Dundee had a title to think and express what the Members of opposition thought and expressed, that if the war was carried farther than driving them from Holland, where they had no title to be, it was carried too far: their frontier Towns might also be taken as Hostages, but why again make inroads into France? Does not this infer, said he, that the Minister wishes to interfere in French Government, and, in connection with his allies, to *legislate* to France. It was impossible, he said, to justify such an interference.

It might also be said, we indirectly were concerned in taking away the liberty of the Poles. Russia
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and Prussia were the immediate instruments—we were their *allies*. I hope there is no Briton who approves of the proceedings of these despots, and I trust we are not about to follow their example in our interference in France. Such interference goes to the overthrow of all government. The lust of the Empress of Russia might have been glutted by the dismemberment of Turkey and Poland—but her ambition is insatiable, and unbounded—her late manifestoes shew that it is her will and pleasure that liberty be eradicated from the face of the earth. I am aware that it may be objected these appeals to the language of Parliament are not in point, as a greater liberty of debate has been understood to be allowed in Parliament than out of it. The answer is obvious. So long, undoubtedly, as the speeches of members are not committed to writing or publication, they are not accountable for what they say, and if they are published without their knowledge they are as little accountable; but the moment they appear in Newspapers they are without the privilege of Parliament, and the publishers are accountable. Instance the late case of the Archbishop of York who compared the Honourable Managers of Hastings' Trial to Roberfpierre and Marat. On deliberation of the House of Commons they had no doubt his Grace could not be called to account for what he had said in his place; that the only remedy was against the publisher of the Newspapers,

papers, where the speech appeared. On consulting, however, precedents, they dropped even the prosecution of him, as immemorial practice had sanctioned the Newspaper detail of speeches.

But it is not on Newspaper authority, said Mr Hagart, my Client has to rest—Grotius, Puffendorf, De Lolme, Hume, and all writers of any note, who have canvassed constitutional questions, are all agreed that free and unlimited communication of sentiment is essential to, and the great characteristic of Freedom. He then read a paper from De Lolme, who, though a foreigner, was, he said, so much a favourite, that his work had gone through as many editions as Dr Blair's Sermons. In this passage it is said, "Although it is unlawful to calumniate private persons *the case is widely different in speaking of Government*, for this publicity of opinion makes bad men good, or shews them they will be punished." Other extracts were read, shewing the liberty of Britain to depend on the liberty of the Press.

Thus also Milton,

"We have them not," says Milton, "that can be heard of, from any ancient state, or policy, or church, nor by any statute left us by our ancestors, elder or later, nor from the modern custom of any reformed city, or church abroad; but from the most antichristian council, and the most tyrannous inquisition that ever existed. Till then, books were ever as freely admitted into the world as any other birth; *the issue of the brain was no more stifled than the issue of the womb.*"

Thus also Hume, who, it is well known, had high monarchical principles,

"It is apprehended, that arbitrary power would steal in upon us were we not careful to prevent its progress, and were there not an easy method

method of conveying the alarm from one end of the kingdom to the other. *The spirit of the people must frequently be roused, in order to curb the ambition of the court; and the dread of rousing this spirit must be employed to prevent that ambition. Nothing is so effectual to this purpose as the liberty of the press, by which all the learning, wit, and genius of the nation, may be employed on the side of freedom, and every one be animated to its defence. As long, therefore, as the republican part of our government can maintain itself against the monarchical, it will naturally be careful to keep the press open, as of importance to its own preservation.*"

Thus also Chesterfield,

"The stage, and the press, are two of our out-sentries; if we remove them, if we hood-wink them, if we throw them in fetters, the enemy may surprise us."

Thus also Earl Stanhope in his defence of the Libel-bill,

"If," says his Lordship, "our boasted liberty of the press, were to consist only in the liberty to write in praise of the Constitution, this is a liberty enjoyed under many arbitrary governments. I suppose it would not be deemed quite an unpardonable offence, even by the Empress of Russia, if any man were to take it into his head to write a panegyric upon the Russian form of Government. Such a liberty as that might therefore properly be termed the *Russian Liberty of the Press*. But, the *English Liberty of the Press* is of a very different description: for by the law of England, it is not prohibited to publish speculative works upon the Constitution, whether they contain praise or censure."

The address, he said, then continued to state a list of grievances resulting from the war.—Bankruptcies encreased, Trade ruined, bloodshed, &c.; and is not this all truth? As to the term "Quixotic Expedition," the gentleman who composed the address, perhaps, wished to shew his great learning in having read Don Quixote; but at any rate, the term is extremely innocent. What is the meaning of the term Quixotic—what is it but romantic? The days were, he said, when a Journey to the Holy Land was held the fore-runner of an ascension to heaven: what is it now but Quixotic?

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Mr Hagart then continued to remark, that in the reign of Charles Ist. and part of Charles IInd. while the Star Chamber, or licensers of the Prefs, as they might be called, existed, it was well known the liberty of the Prefs in England was in the same situation as in Spain. But all this only tended to accelerate the Revolution, and since then an unbounded freedom had succeeded. He next read some quotations from Mr Grattan's celebrated speech, in the Irish House of Commons, on the subject of the Dungannon Meeting, which he had omitted when on Newspaper authority; in which Mr Grattan justified, not only meetings and associations within doors, but what he called a great original *measure*, meetings in the field; Mr Hagart did not mean, by quoting, to approve of what Mr Grattan said; but, said he, Is there any such proposal started in the Berean Meeting-house? No, the language there is Constitutional and proper. Yet no prosecution was thought of against the Publishers of this speech, but the comparatively innocent Publication of the Berean Association is now arraigned.

Again as to associations among private individuals, Mr Hagart referred to the London Mercury for the year 1780, shewing they were general all over the kingdom, and that their resolutions were much more spirited than that of the Berean Association, and in particular the Resolutions of the Duke of Richmond and Mr Pitt, were as much, if not more spirited;

spirited ; but, said he, I will not detain you longer ; to quote every precedent would be endless.

Upon the whole, I hope I have shewn no trial can proceed on the present Indictment. The *major* proposition states a crime which the minor proposition does not make out, and besides the Indictment is otherwise indefinite and informal ; but if even those objections shall be over-ruled, surely it cannot be doubted that the whole scope and meaning of the writing in question goes to the presenting another Petition to Parliament, and after the examples and authorities I have given, I trust no one will call in question the right of British subjects as often as they chuse to exercise that right. I will only farther add, that if alarms some time ago went abroad, those alarms are unquestionably now removed. We know no crisis is so much to be dreaded as this. History informs us how difficult it is to stop short when the cure is performed. The natural progress is from one extreme to another, and without much circumspection a disease more fatal than that meant to be removed is the infallible attendant. In the hands of your Lordships I know there is no risk. As you yourselves received it ; so I trust the precedent of this day, will transmit to your posterity, the effusions of the Press, as the immortal Milton has expressed it, “ as free as the effusions of the womb.”

Mr MacConnachie said, That with all the attention he could possibly pay to the long speech he had
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just heard, he felt considerable difficulty to collect the purport or drift of what had been advanced. It seemed to him, that the learned gentleman intended to attack the Doctrine contained in the major proposition, as not sound law; for, as to the minor proposition not amounting to the contents of the major, he could scarcely suppose that any man in that House, or elsewhere, in the use of reason and common sense, could examine the conduct and language contained in the minor, and not see the major established. The Law, as laid down in the major proposition; no man of Law can undermine; nay, without such Law, no Government can exist. Mr MacConnachie then read the major proposition from the Indictment; now, said he, if this is the law of the Land, the question is not how often this law has been infringed with impunity; how often the greatest men in the kingdom, or the most insignificant, have dared to violate it, but whether the evidence adduced is sufficient to establish it in the cause now brought to issue. The circulating privately this Hand-bill, which contains all the ingredients required to constitute the major proposition, is sedition, in as far as it directly tends to rouse to acts of sedition and violence. The slightest reading will justify what is here advanced. I do not mean, said he, to follow the gentleman through his various evolutions, but simply to call attention to the plain

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and obvious meaning of the words. It commends their loyal and steady conduct in these *days of adversity*; it promises to arouse them from their lethargy; and alarms them by stating, that the *small portion of liberty* they *once* enjoyed, is fast setting; it then proceeds to enumerate the evils under which they live; assures them that every day adds a new link to their Chains, which, by the way, is a plain assertion that they are at present Slaves, and in Chains, to which new links are adding; that the Executive Branch are proceeding to unwarrantable acts; that the House of Commons, (I speak, said he, as to the plain meaning of the words) that House which should defend the people from King and Lords, has joined the confederacy against us. This, said he, is more than sedition, it borders hard on treason. The address then proceeds, "We have done our duty, and kept our Posts"—I wonder Mr Hagart did not quote French Newspapers here instead of English, they talk much about keeping to their Posts. The addressers then assert the right of universal suffrage—How! is there any such right in the law of Britain? No, nor no where else but in France was it ever heard of; in no period of the history of this country, was the suffrage of the people so universal as now. This doctrine cannot be legally asserted, though it is here done, and that as our chief right, our just right, our privilege. "We are not deterred, or disappointed

pointed by the House of Commons refusing our Petition," says the address. This manner of speaking could not be for the purpose of stirring them up to apply by Petition, as the learned gentleman had advanced, for they knew, it seems, continued Mr MacConnochie, that such a Petition would be nugatory; if they petitioned, it must be *pro forma*; but when they talk of asserting, they must mean another mode than petitioning. They call it the *right* of universal suffrage; where is this right founded? surely neither in law nor common sense. They could have no more right to this than to divide our property among them. The Constitution confides the franchises of the whole to the keeping of a few on their account, but not into the hands of an organized mob; it has confided it where it will not be abused; for the truth of this let me appeal, said he, to our House of Commons; trace its History for 150 years, House after House; such a body of men, collected together for such a purpose, is not to be met with in the History of any Country.—Remember the Character they have sustained; the virtue, wisdom, and honour they have manifested; the attention they have uniformly paid to the interests of all Ranks; think how long they have kept within their own proper bounds, without encroaching upon that of others; their conduct has placed them high above all who have borne the name of associated

bodies; let them be compared with any Utopian assembly, any French assembly—the disgrace of mankind, but much more of a nation once civilized. The addressers having stated their claim, proceed to call their fellow Citizens to gather round the Fabric of Liberty, &c. Is this the language of a Petition? Is it not rather a trumpet to collect for a great *original measure* which Mr Hagart has mentioned—the same original measure Grattan commended is here commended. (Here Mr Hagart reminded Mr Mac-Connachie that he did not speak in approbation of the measure). If, continued he, the time is come to assemble round the Fabric of Liberty, be it so, it is well worth protecting.—But surely this is not the way to protect it. Having gathered them round this right of universal suffrage, which would be fatal indeed to the House of Commons, they proceed to declare, that a wicked Ministry, and a compliant Parliament, have plunged us into a war in order utterly to *destroy* a people; horrible purpose indeed! Such a Legislature should indeed be punished, nay ended; the nation should indeed rise to destroy such a Ministry, if they will be free. But is all this justified in truth? So long as France kept to their original Revolution, this nation, and all good men in it, looked on rejoicing; but when they forsook their own proper ground, and not only established dangerous principles among themselves, but by the most
insidious

insidious and artful means attempted to corrupt the minds of the lower classes of people here; then it became not only lawful, but absolutely necessary, to join in the War against those, who, having destroyed liberty at home, laboured to do so in other nations also. The address, continued Mr MacConnochie, then enumerates a list of evils which it states to have proceeded from the War. This, in some degree, may have been the case; but if so, it may be safely averred, they take their root from such Societies as the Addressers; had there been no Friends of the People, as they are called, there had been no War; the French, without the encouragement afforded by such Principles and such Societies, never would have been hardy enough to attack the British Nation; but when mal-contents, and Societies of mal-contents, were rearing their heads here, the rascally French insidiously attempted to throw this Country into confusion, that they might enjoy the fruits. Taxes are spoken of, they are hard to be sure, but they are the price of our privileges.—Better for us to pay Taxes, than to live under the dominion of a mob. War is a great evil, but a necessary war must be supported; Bankruptcies are numerous, but who occasioned these bankruptcies? The address then speaks of the loss of the invaluable Rights and Privileges, which our fore-fathers enjoyed;—what were they?—produce me a single right which our ancestors

tors enjoyed, and of which we have not the full enjoyment.—I defy them to produce me one; it is therefore a gross, palpable, seditious falsehood; and there is nothing that tends more to kindle discontent in the minds of the lower classes of people than such allegations. The Addressers then conclude with an appeal—an appeal which, so long as Government exists in this Country, can never be understood in any other light than that of an *original measure*. “Friends of Liberty, we call you to exercise your lost Rights.” Such language would have immortalized the Addressers at the period of the Revolution, when the Bishops were sent to the Tower, for refusing to sign an *Unitarian* confession; when the King taxed his Subjects without the consent of Parliament; these were the days which sanctioned such language:—but shall it now be used?—shall we be deprived even of Government itself by such vile incendiaries?—Solicited, urged TO RISE—and will not the Law punish such intending REBELS? to stir up the ignorant to assume the office of legislation, for which they are totally unfit, and that while government exists!—this conduct calls for exemplary punishment.—Sure, it is their great plea is the sword. A time may come, said Mr MacConnachie, when such spirit may be properly shown. The Country lately discovered a spirit not against the Government, but against *Societies*,—those little self-elected Parliaments,

ments, of which we have just been hearing; Societies from which a Convention was to have been formed; from these there was real cause for alarm. I hope if Religion or Civil Liberty should ever again be attacked either by King or Mob—such things *may* be,—I can scarcely venture to figure them,—yet Kings are but men; if Bishops are sent again to the Tower for refusing to sign religious Confessions; if the nation is again taxed by a King without the consent of Parliament, *then* will it be a time to rise, then a time for such spirit to be used; but till then, your Lordships are bound to consider this as an atrocious act, I might say, of constructive treason, though I am only called upon at present to prove it seditious. In a word, it may be fairly construed as a seditious attempt to incite the people to tumult by falsehoods as to Government, and finally to appeal to the sword.

Mr Hagart begged leave to add one word more. Whether, said he, the fault was mine, or that of the learned counsel, in not attending to what I said, I know not; but, said he, he seems totally to have mistaken my meaning. I never averred, that the major proposition, stating what is sedition, is not sound law; I ever said it was; I only meant to state that the Indictment as it stands does not form a syllogism. The major proposition contains sedition beyond doubt; but, unless the minor contains in it facts, amounting to the allegation in the major, the syllogism is incomplete. Again, I did not say that high titles, &c. justified

fied the language they have used ; I only averred, that uninterrupted practice beyond all memory, and that practice unchallenged, is consuetudinary law, which is the best law and best precedent we have. If King, Lords, and Commons, shall make a law, that it is unlawful to associate, then this law becomes part of the Constitution. But without such law, the practice cannot be illegal. He remarked that Mr MacConnochie dwelt particularly on the word *chains*. Since the learned Gentleman seems not satisfied with the explanation I have given him, he may have another—It may allude to self-elected Magistrates, who, while lending deaf ears to every sort of reform, are decking themselves with gold *chains* ; at least I think I have more merit in my explanation, than the learned gentleman has in his dissertation on French Posts. In a word, I understand these chains to refer to the abuses of Parliament. Mr MacConnochie, said he, laid himself open, when he observed, that as no law laid down universal suffrage, so no person was entitled to form a speculative opinion upon it. (Here Mr Hagart was interrupted by Mr MacConnochie, who denied his having used such a phrase ; Mr Hagart made another attempt to repeat his expression on this head, which was also refused.) He certainly said then, said Mr Hagart, such language was suited to a time, if any such time should ever come, when the Reverend Bench of Bishops should be sent to the Tower, for refusing to sign a
Religious

Religious Confession.—Would Bishops only rise, or would Commoners also? Mr MacConnochie inculcated, that in such times, the people might lawfully go into rebellion—this is sedition with a witness—this is more rebellious than any thing I have heard. All that I contend for, is the freedom of petitioning, and I hope that will ever be held the subject's right. If a time shall come, when petitioning shall be held illegal, or be prohibited, then the liberty of the subject will be transferred to the Crown of the Monarch.

Lord Eskgrove observed, that Mr Palmer, the Pannel at the bar, stood accused and indicted agreeable to the principles of the law. In the mean time, he is to be presumed innocent of the charge, and I hope the issue of this day's trial, said he, will prove it to be so. In considering the nature of this charge, in order to establish the relevancy or irrelevancy of this libel, it is necessary, at present, said his Lordship, to suppose the charge true; afterwards it is to be enquired into, whether he actually committed the crime charged. Libels consist of two parts, the major and the minor propositions; or, the general charge, and the special facts. As to the major proposition, his Lordship contended it was undoubtedly relevant; and, indeed, said he, it cannot be denied, that if a government or constitution exists, the allegations contained in the major proposition constitute a high crime against such government. It would be a

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strange

strange government, and a strange country, which could be compared to nothing but French anarchy, if an attempt to raise the people, were not punishable. For this address, in order to rouse the people, calumniates government, vindicates our enemies as objects of commiseration, and blames our going to war with them as a high transgression. Such a publication is seditious; by the old law it was more, for sedition was treason. I am thankful, that our law does not go so far; but is difficult, said his Lordship, to draw the line; to inflame against the King, is treason; and to make a similar attack against the Constitution of King, Lords, and Commons, is only sedition.

We must now, said his Lordship, examine the minor proposition, which alledges, that the head of a certain religious society, who is also connected with a society, called Friends of Liberty, did write, or cause be written, print, or cause be printed, circulate, or cause be circulated, a certain manuscript, &c. if this paper is harmless, well; if not, such writing, printing, or circulation, is criminal. Mr Palmer, it seems, is from England, and comes here to teach, and circulate Religious principles; but when here, he ought to be subject to the laws of this Country. But how does he act? he turns his meeting-house, said his Lordship, into a house of sedition*. All

Countries

* His Lordship supposed, that as the address was dated from the Berean Meeting-house, that this Berean Meeting-house was Mr Palmer's

Countries have bad men in them, but it is a sad thing indeed, when strangers come to disquiet them. We shall now, said his Lordship, examine the paper itself; and first, liberty doubtless stands connected with the right of petitioning any branch of the Legislature, properly worded. But if again, instead of applying to the legislature, any clergyman or others, shall think proper to call meetings, and collect together mechanics, and those whose education and circumstances do not entitle or qualify, to judge of matters of Legislature, the case is exceedingly different. This address, said his Lordship, sets out with speaking of days of adversity; this is a novelty indeed; days of adversity in July last! They speak of only *some portion* of liberty.—I hope that all men here know and experience more liberty, than any subject in any other kingdom on earth. In November last, such speeches were too common; but in July last, such freedoms were not supposed. This writer supposes his hearers are in a lethargy—and his object is to awaken them, for the fun of liberty is setting in despotism. Where are these words exemplified? In France they once were true; but in France, said his Lordship, we now see, that government, or authority, in improper hands, is terrible indeed; Massacres, Guillotines,

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mer's place of worship: this was not the case, and was afterwards explained to his Lordship.

lotines, bloodshed, and violence. The address speaks of our being the envy of the world, for a *small* portion of liberty, (not for every useful extent of liberty,) but now sinking into slavery. Can words be used more calculated to impress the mind, and to stimulate even to draw the sword. Every new day, says the address, adds a new link to our chains. Where are these chains? Are our manufactures chained? Is our religion, or our trade, or any privilege chained? No, they are unfettered to the utmost extent which human wisdom can make them. The House of Commons, say they, have joined the aristocracy; what can the good honest people think, but that King and Ministry are daily exercising acts of despotism? Has even Mr Hagart given us one instance of this? Is there any unprecedented act of power specified? The King is now become a tyrant, for tyranny in the executive government, must point to the King, the head of that government;—Our excellent, our gracious King, that best of Princes, the Father of his people, is he then become a Tyrant? Who are the aristocracy? What is become of this barrier? What, are they all joined against the people? Thus instructed, the people can have no confidence in their rulers. Were this a time or place to look back on our history, how opposite the conduct of our rulers has been, might be easily demonstrated; I shall only mention the *General Warrants*;

—Have

—Have we not evidence, in this and many other instances, that the constitution contains in itself principles of amendment?—and it will be daily amended. The addressers say, we have done our duty, and kept our posts—they write, of universal suffrage. I do not object, said his Lordship, to petition even for this, if they choose to do so; but is it not making a new constitution?—This is entirely a speculative matter. Let us look to France, and her speculative opinions; her violence, rapine, murder, massacre, Guillotine, give no great encouragement to experiments of this kind.—That universal suffrage certainly contains in it the overturning of the constitution. I was surprised to hear, that Mr Hagart, in place of an universal suffrage of the people, limited the right of voting to £100. Scots a year; I rather suspect, there is not one in all the Berean Congregation, who could boast of so much property; this society, therefore, need not distress themselves about a suffrage, which even Mr Hagart does not seem disposed to allow them.

I cannot but agree with Mr MacConnachie, said his Lordship, that it is impossible, to read this address, and to say it is meant to Petition; no, it is something else.—An *original measure* seems to be in view:—to rise, to carry through, what Parliament have refused to grant. “Now is the time to rise—to surround the Fabric of Liberty—to rise, not to ask relief

relief from oppression, but to overthrow the Constitution, and renew it to our minds." They speak, said his Lordship, of destroying a whole people. This evidently tends to lead them to think that we mean to fraternize a people with the sword, agreeable to French practice; when the French subdued Flanders, they fraternized them with the sword; and they seemed to wish to fraternize us also. *To force us to be free*,—forty thousand men were to be landed here; had these fraternizing principles been only heard in France, we might have cared the less; but here, in this country, Societies were formed, who were ambitious of this connection. Opposing these principles, the address leads us to consider, as wantonly going to war, for the purpose of destroying a whole people, in place of ensuring safety to ourselves. The address then proceeds to enumerate the Bankruptcies, loss of Trade, Bloodshed, &c. representing the war as intended for the destruction of a people, and the forging of chains to ourselves. Taxation is complained of, and the many miseries we live under; what are these miseries? *You once had privileges*—What were they which you now want? What a strange representation! One would suppose he was preaching to a subject in Russia. But then, what does he recommend? to Petition? No,—“Rise, and assemble round the Fabric of Liberty.” If, said his Lordship, a Government exists,

exists, that could suffer such a paper to be circulated, to collect people for sedition, it would not long be a Government. What would not be the consequence? What madness to talk of liberty on French principles! As to freedom of speech, a man was guillotined for saying that one Tyrant was better than 700.—As to the liberty of the Press, I profess myself a friend to it. Let a man speculate on principles of Government, and print his speculations; but if the Press become the circulator of Libels, no Advocate for Liberty would justify it.

We have heard, said his Lordship, a great deal about speeches in Parliament; I know not, that such speeches were delivered; but if they were, let Parliament take cognizance of its own members. But were a thousand instances adduced, of such crimes passing unpunished, are they precedents? Is this language to be maintained at this Bar? In that case the Supreme Court, would sit for the purpose of stamping sedition with legal authority. Let us suppose for a moment, that a murderer were brought to this bar; what would we think if a Counsel should plead that many murderers, yea murderers of Title and respectability, had passed unpunished? Our duty here, said his Lordship, is wholly official; the question is not Whether or not the Pannel is guilty, but, Is the Libel relevant? For my own part, I have no hesitation in declaring, that
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alarming, or as they call it, rousing the minds of the people, is a crime, which, if no Court cognize, would soon leave us, having no court to cognize. The whole paper seems to be seditious. But the Jury must judge for themselves; we have long had the happiness to enjoy more liberty in this respect, than was enjoyed even in England; in the doctrine lately established there as to libels and Juries, they only follow us in what we always possessed. I am therefore of opinion the libel is relevant, &c.

Lord Abercrombie said that after what had fallen from his Lordship, he would but shortly observe, that the far greater part of the arguments of the counsel for the Pannel, were of no moment in this question. He seemed to dwell, in a particular manner, on the necessity of preserving uninfringed the liberty of the Press, an argument which is totally unconnected with what we have now to consider. I agree with him, said his Lordship, that the liberty of the Press ought to be preserved and attended to; but wherein does that liberty consist? Simply, as I understand it, in this; That the Press is as free as speech itself; and as any man in these kingdoms may utter by speech whatever he pleases, so may he write, print, and publish without constraint, or being made amenable to the lash of the law; but there is one condition to be attended to, if a man speak treason against his king or his country; if a man

man speak blasphemy against his God; if a man speak slander against his neighbour, then becomes he criminal; then becomes he liable to punishment. In like manner, with the utmost liberty to print what he pleases; if he print or publish treason, blasphemy, or slander, such writings or publications are cognizable and punishable by law, when convicted by a jury, whose minds are unbiassed, and judgments unfettered. In this simple point of view, the liberty of the Press is not connected with this subject, nor can it be affected by this question being brought to trial; for the Press has had full liberty to print, but the question now to be tried is, is the publication seditious? This the Jury must determine; if they find no sedition in the paper, then there is no crime in the publication of it. I am therefore clear as to the relevancy of this libel. That the major proposition is sound law, and defines what is criminal, no man can deny. And I fully agree with what your Lordship and Mr MacConnochie have advanced, with regard to the tenor of this paper.

The Court therefore repelled the Objections, and found the libel relevant to infer the pains of law.

Evidence for the Crown.

The Court granted warrant to apprehend the person of *William Moncrieff*, Town Officer in Dun-

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dec, who was lawfully cited to appear as a Witness in this cause, and failed to appear. The Court also fined the said William Moncrieff, in the sum of 100 merks Scots.

Mr Harry Davidson, Being sworn, &c. Deponed, That the declaration now shewn to him, was the declaration which was emitted in his presence by the Pannel at the bar, and which he then attested. That the said declaration was freely and voluntarily emitted in his presence, and that the declarant appeared to be sober, &c. The fundry other papers exhibited in this cause, (copies of which will be found at the end of the parole evidence for the Crown) were all authenticated by him in like manner.

Mr Joseph Mack, Deponed to the same effect.

George Mealmaker. After this Witness had been sworn, Mr Clark, Counsel for the Pannel, suggested to the Court, that he should be informed, that any deposition he might now make, would never in any degree affect or tend to criminate him. This the Court were at great pains to inform him of. (The Witness having withdrawn,) Mr Clark informed the Court, that this Witness stood in a very delicate situation, being himself the author of the Handbill libelled; this he thought proper the Court should understand, in order that they might be studious to relieve his mind from any apprehensions as to the consequences of his examination.

amination. The Witness being again brought into Court, deponed, that he knew of two Societies in Dundee, who were distinguished by the names of the *Friends* of the Constitution, and the *Friends* of Liberty; that he was a member of the Society of the Friends of Liberty, which met in the Berean Meeting House; that, he is acquainted with James Yeaman at the Scouring Burn, who is a member of said Society; that he, the Deponent, had at different times been Preses, Secretary, and Treasurer to the Society, though at this time he bore no office; that, he recollected different manuscripts had been laid before the Society, but particularly, he recollected one Paper, entitled, "An Address to Friends and Fellow Citizens;" he deponed, that the first part of this address was produced, in its original state, at a Committee of the Society; that, the first draft he himself had written, and produced; that, it was read there by Mr Palmer; that, nothing more was said of it at the Committee, but at an after Meeting, which they called a General Extraordinary Meeting, and which was called by the committee for the purpose of considering the concerns of the Society, and particularly to publish an address to their Fellow Citizens, on the political situation of our Country; it had been proposed at the committee, to read the address at the said General Extraordinary Meeting; that, the meeting was collected

before he went; that, when he came there, he saw the address lying on the Table, and that he himself read it; that a debate followed; the manuscript was not then compleat, but it was debated, paragraph by paragraph, and altered there; it was then ordered to be printed, and the meeting delivered it to Mr Palmer and James Ellis, for one or both of them to take charge of its being printed. Deponed, that Mr Palmer entered as a Member at that meeting; that there was a book kept, in which the test of the Society and the names of the members were inserted; that what they called the test, was a short declaration of the reasons on which the Society was founded, and which every member signed upon his admission. Being shewn a manuscript copy of the address, he deponed, that he could not absolutely swear to its being the Paper read in the Society; but on being pointed to his own subscription, he acknowledged it; that some additions were made to this address between the time of its being in the committee and the General meeting; he could not say exactly by whom, but that during that time it had been in Mr Palmer's possession.

Deponed, that the Society made no minute of the business. When shewn another manuscript copy of the address, he said, it was not that produced at the general meeting. Deponed, that he did not know who wrote the copy of the address; that the writing

ing of the paper produced at the committee was the same as that produced at the general meeting, the additions and alterations excepted, the hand writing of which he did not know.

Being farther examined, Deponed, That although he was not absolutely certain, it was his opinion the hand writing of the alterations and additions was the hand writing of Mr Palmer; that, the Paper was ordered to be printed by the unanimous voice of the Society; that, he knows James Ellis, but that he does not know he ever saw his hand-writing; that, in the course of the debate, Mr Palmer spoke along with others, but that he could not positively say, that Mr Palmer made or proposed any of the alterations.

Deponed, that he afterwards saw a number of the printed Copies in the Society, and upon recollection, that he even saw a number of printed copies in the hands of different people, before he saw them in the Society; that, he does not recollect having seen any in Mr Palmer's hands; but upon re-examination, deponed, that he himself got one copy from Mr Palmer; that the Society paid the expence of printing them to Mr Palmer; That, he does not know where the paper was printed, but was informed it was printed in Edinburgh. Being shown a book, deponed, that he thought it not unlike the one used in the Society; that, he had been inform-

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ed leaves had been torn from the book of the Society, and also heard that the cancelled leaves had contained the names of the Members of the Society.

Being Cross examined, deponed, that he himself had signed the Test of the Society; being examined as to the nature of the test, he deponed, That, although he could not pretend to be accurate as to the precise words, he believed it to be to the following purport, *We whose names are subjoined, not satisfied with the representation of the people in Parliament, are determined to use every legal means in our power, to obtain a reformation in the representation and duration of Parliament, &c*; Deponed, that the paper was exceeding short, occupying less than a fourth part of a page of the Society's books; (which was quarto.)

Deponed, that he knows Mr Palmer did not write the original draft; That Mr Palmer's alterations were for the purpose of softening the terms of the address: Mr Palmer indeed spoke against the publication of the address in the original committee; That Mr Palmer lives in Dundee, and that Mr Ellis occasionally lives with him; that, Mr Palmer was admitted a member on the evening of the general meeting; that he does not exactly recollect what the alterations were, but that they chiefly consisted in altering the spelling, and softening the expressions.

Deponed,

Deponed, that he never asked Mr Palmer to write an address, but that the committee desired him to make alterations; that, Mr Palmer proposed other alterations in the general meeting which were adopted; and that he debated chiefly for the purpose of softening the expressions; that during the debate in the general meeting he does not recollect that Mr Palmer dissuaded from the publication, but that it was agreed to unanimously.

Deponed, that the purpose of the Society in the publication of this address, was to arouse the *feelings* of their fellow Citizens, and not their *passions*; by no means to stir them up to sedition; we thought, said he, to publish a paper to animate our fellow Citizens to join us in quiet measures, for the Friends of Liberty have committed no acts of outrage.

Deponed, that in several preceding meetings, the publication of the address had been in agitation, but on being interrogated what steps they meant to pursue in consequence, he deponed, that they had formed no plan of procedure, but were to be guided by circumstances.

Thomas Ivory, Watchmaker, Deponed, that he knew two different Societies in Dundee, the Friends of the Constitution, and the Friends of Liberty. This last Society met in the Berean Meeting-house, and that he had lately been a member there; that, he

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was present when a manuscript address was read; he thinks more than six weeks ago; that it was in the hands of George Mealmaker, and was entitled "an address to Fellow Citizens;" he disapproved of it because of its nature; on being shewn the address, he declared it was the same he had seen in the Society.

Deponed, that he knows Mr Palmer, who was there that evening; That, Mr Palmer objected to some things in the manuscript, as too strongly expressed; that he recollected he caused some expressions, which were originally assertions, be turned into questions; that he understood the purpose of that meeting to be, to approve or reject the address proposed; that he was present but a short time, and does not recollect to have heard any thing said with regard to the printing.

Deponed, that he saw it afterwards posted up through the Town; that he has seen the Pannel's writing, and on a paper being shewn him, he deponed that it had some resemblance to the handwriting of Mr Palmer; that he knows James Ellis, but is a stranger to his hand writing; upon several papers, being laid before him, he particularly specified several writings as similar to the hand writing of the Pannel.

Here the Ccunsel for the Pannel, desired the Witness might be ordered to withdraw; which being done

done, Mr Clarke mentioned to the court; that there was a remarkable similarity between the handwriting of Mr Palmer, and his brother in England. He therefore proposed to shew the witness a letter of Mr Palmer's brother, and to ask him if he thought it to be the writing of Mr Palmer.

To this the Court consented.

The Witness being re-admitted, was shewn the address of a Letter, and, interrogated whether he thought it the handwriting of Mr Palmer, deponed, that he did not think it to be his handwriting, and gave, as one reason, that Mr Palmer never wrote in so large a character.

Being cross-examined, Deponed; That Mr Palmer debated at the meeting, as he formerly mentioned, and that he also wished to soften the phrases; that, he (the witness) never spoke, but disapproved of the address altogether; when shewn a writing, he declared he did not think it was Mr Palmer's, that he had, at one time, received a Letter from Edinburgh, from Mr Palmer, from which, and other circumstances, he knew his writing.

James Martin, Deponed, that he is a member of the Society of the Friends of Liberty, and heard an address read and debated; that he heard Mr Palmer speak against printing it; and that he saw it after it was printed; that several copies were left at his

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house, but he knows not by whom; that, he has also seen them posted up; that the Society desired Mr Palmer to get it printed; but Mr Palmer refused to copy it himself. Deponed, that he also knows Ellis, who was present at the meeting; that he understood, the reason for printing this address, was to call men's minds merely to the subject of Reform; that, general instructions were given to every member, to distribute this address; and that he thought, the writing of several letters shewn to him, was similar to Mr Palmer's; deponed, that he was no officer of the society at that time, but that he had been once president; that he had letters in his possession, signed, T. F. P. and T. F. Palmer; on being shewn a Letter, he said, he thought it had been once in his possession, but that it had been taken out of his pocket book by a gentleman from Edinburgh; that, the expence of printing the address was paid to Mr Palmer, by George Luke, treasurer of the Society; that, last time he had seen the Society's book, it was entire; on a book being shewn him, deponed, that it was nearly the size of the Society's book, but that it was thicker than that which was shewn him; a number of Letters, &c. were also laid before him, the writing of which he thought similar to Mr Palmer's.

Being cross examined, deponed, that he was apprehended on a Monday morning, and his Papers examined;

examined; that he was seized and sent to Gaol; that he was liberated,—seized again, and delivered up his Papers. That at the General Meeting, when the address was debated, Mr Palmer proposed it should be printed in the Newspapers, but he was outvoted; that Mr Palmer's proposed alterations, all tended to soften the expressions; that, in some of his proposed alterations, he succeeded; in others, not. That George Mealmaker avowed the first draft of the address to be his, and spoke at the meeting in defence of it; that none in the meeting supposed the address to be illegal; but the intention of it was understood to be, to call attention to Parliamentary Reform.

Mr MacConnachie here interrogated the Witness, what he meant by the Fabric of Liberty? The Witness replied, to gather together, in order to obtain a Parliamentary Reform; that having failed once, they proposed to try it again; a failure this year, did not say they were to fail next.

Being cross examined by Mr Hagart, to give his explication of the different parts of the address, he proceeded to do so; all pointing to the necessity of a Reform in Parliament.

James Ellis, Deponed, that he resided with Mr Palmer in Dundee, and has been a member of both the Societies there; that Mr Palmer is a member of the Society of the Friends of Liberty, into which

Society Mr Palmer and he were admitted at the same time ; that on the evening on which they had been admitted into this Society, the chief subject which occupied their attention, was an address to their Friends and Fellow Citizens ; that this address was written by one George Mealmaker ; that there was only one word in a different hand writing ; that he had read the paper, and the word was either *hurling* or *dragging* ; that he does not know who wrote it ; that several alterations were made, but none, that he recollects, by Mr Palmer ; that the paper was ordered to be printed.

Deponed, that Mr Palmer offered to get it printed, but that he (the Witness) had undertaken it ; that the manuscript was accordingly given to him ; that he wrote a copy for the Press, which, with the original, he left with Mr Palmer ; that he was at that time taken ill, and had access to know nothing more of it ; that he saw it afterwards in Mr Palmer's house ; that, he does not know where it was printed, nor if the printing of it was paid ; that he told the meeting he would get it printed, but that he had no conversation with Mr Palmer upon the subject of the printing.

A Letter was then shown him, and being interrogated whether he believed it to be Mr Palmer's writing, deponed, that being resolved to state nothing of which he was not absolutely certain, it beho-

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ved him to decline answering the interrogatory, as he was not positive whether it was Mr Palmer's writing or not. After some explanation, in which he was told, that he was not called upon, to depone that it really was Mr Palmer's writing, but merely what was his opinion on that head, he deponed, that he believed it to be Mr Palmer's writing.

A paragraph in a Letter being pointed out to him, which mentions the Printer's brother, he was again asked whether he knew who this printer or his brother were, he deponed he did not.

Being cross examined, deponed, that Mr Palmer lives in the close, called Methodist's Close, Dundee; that he was there in June last; that he recollects to have been stopt in the close one evening, when in company with Mr Palmer, by George Mealmaker, Hood and others; that George Mealmaker said, he belonged to a Society of Friends of Liberty, which met in the Berean Meeting-house; that they intended to publish an address to their fellow Citizens, and wished to have Mr Palmer's assistance; that there were about thirty who generally attended their meetings, consisting chiefly of Tradesmen and Labourers; that Mr Palmer said, a Society of that class of people, and so few in number could not with propriety afford to take such a step because of the expence.—He told him that they had funds; Mr Palmer still advised them against publishing it;
that

that he, the witness, interfered and said, that if they were determined to publish, different addresses might be written, and that adopted which they thought best; that they requested Mr Palmer to attend their meetings.

Deponed, that he the next day enquired at Mr Palmer if he had yet written any thing for them; he replied that he had not, nor did he intend to do it; that he, the witness, frequently urged him to do it; that when Mr Palmer returned from the committee, where the deponent had not been present, he brought a copy of the address with him, which had been given him to correct; that he (Mr Palmer) took it again with him next meeting, and put it into the hands of George Mealmaker, observing, that he had no authority to alter it; that he had therefore only altered one word, and the spelling.

Deponed, that the Pannel expressed his wishes, that they would not publish it, but said, that if they did, it ought to be materially altered; that George Mealmaker objected to this, and said, that he had wrote nothing but truth, and declared, if the address were much altered, he would erase his name from the Society; that it was debated clause by clause; that Mr Palmer frequently spoke, and entreated them to soften the expressions, not, said Mr Palmer, but that I believe it is as true as the Gospel,

Gospel, and innocent in itself, but those in power may make a handle of it against you.

Deponed, that he understood the purport of the paper to be, to awaken the minds of the people to the subject of Reform, and to effect, if they could, a more equal representation of the people, by quiet and peaceable means; Deponed, that George Meal-maker avowed the paper to be his, and wished Mr Palmer to copy it, which he refused, but which he, the witness, did; that Mr Palmer got the money from the Society; for the expense of printing it; and that he certainly thinks, the paper is not of a seditious tendency.

Lord Abercrombie. In what capacity did you live with Mr Palmer?

James Ellis. As a visitor, my Lord.

Alexander Moren, Grocer, being called,

Mr Clarke objected, his name being misspelt; but as it was found to have been printed from his own subscription, the objection was repelled.

This witness deponed, that he recollects having in his possession printed copies of an address; that there were said to be 1000 copies of them; that they were got from the Printer, viz. John Moren his brother; that they were printed by orders from Mr Palmer; that he got a letter which he understood to be from Mr Palmer, ordering them to be printed, and enclosing a manuscript copy for that purpose;

purpose; and deponed, that a manuscript address shewn in the Court, was that which Mr Palmer sent him to be printed. That he knows nothing of the tearing of the Papers produced; deponed, that he recollected the papers now produced to him, and which were the same the officers had found in his house; that, he had no orders from Mr Palmer to destroy the manuscript or letters; he acknowledged, that the scroll of the letter shewn to him in Court, was a scroll of what he had intended to write Mr Palmer, but which he had not sent off.

Deponed, that he sent all the advertisements to Mr Palmer, except about 120 copies, the greater part of which he had delivered to Mr Skirving, agreeable to Mr Palmer's directions; that Mr Skirving had sent for them; that, the copies sent to Dundee were addressed to Mr Palmer, and forwarded by the Carrier; that, he distributed a few odd copies, and that he has no knowledge of the printing being paid.

John Moren, Printer, Deponed, that he was employed to print an address from Dundee by his brother, Alexander Moren; that he forgets the number printed, but thinks they were about 4 or 500; that they were never paid; that his brother promised him payment, and got all the copies printed. That he keeps no Account-books, and thinks the manuscript produced, is that from which he printed them.

George

George Mackintosh, Clerk to Mr Handafide, Deponed, that he got a copy of the address from Mr Moren, and saw no other copies but in the Sheriff Clerk's Office.

William Middleton, Sheriff Officer in Edinburgh, Deponed to the authenticity of the several different papers exhibited in this process, and described where he found them in the course of his search.

Edward Leslie, Bookseller, Dundee, Deponed, that he had printed copies of the address in his possession, more than 6 in number, though he cannot be positive how many; that they were left with him by Mr Palmer, and that he might have had more if wanted; that he gave away a few, but suspecting danger, he burnt the remainder. That he believes Mr Palmer also gave some copies to Mr Miller, Bookseller Dundee.

Deponed, that Mr Palmer gave no directions about circulating them, but that he understood they were given him for that purpose.

Robert Miller, Bookseller, Dundee, Deponed, that he had seen the address, which was brought to his shop by the Pannel; he cannot exactly specify the number, but thinks there were more than six; that Mr Palmer said when he left them, it was a wonderful composition to be done by a journeyman weaver.

I

Deponed,

Deponed, that he understood they were to be circulated, and that he paid nothing for them; that he laid them aside among other papers in his shop, and afterwards burnt them.

James Smiton, Wright, Newburgh, Deponed, that the letter shewn him in Court, bore a resemblance to one he received from Mr Palmer, but declined swearing that he believed it to be the same letter. After close and frequent interrogation, he said he was the more diffculted to depone to that letter, as the letter he received was only signed T. F. P. but this letter was signed T. F. Palmer. Deponed, that he got some printed addreses, he thinks, about a dozen, and distributed a few to persons he named.

The King's Advocate now informed the Court and Jury that he had finished his Parole Evidence, and had only further to trouble them with the written evidence, which consisted of the different papers exhibited and founded upon in this trial.

I. Declaration emitted by Mr Palmer.

At Edinburgh the Second day of August, Seventeen Hundred and Ninety Three Years.

THE which day, compeared in presence of Harry Davidson Esquire, Sheriff Substitute of the Shire of Edinburgh, Mr Thomas Fische Palmer, Clergyman in Dundee, presently in Edinburgh, who being examined

mined and interrogate, when he went last to Dundee, he answered, That, not knowing the tendency of the questions to be put to him, and being unacquainted with the Law of Scotland, and not having seen the petition upon which he has been brought to Town, he declines answering this or any other question that may be put to him; and being interrogated, whether or not he is acquainted with William Skirving, of Strathruddy, residing in Edinburgh, and sometimes designed, Secretary to the Friends of the People, at Edinburgh, or with Alexander Morren, Grocer and Spirit Dealer, in Luckenbooths Edinburgh, Mr Palmer declares and declines answering any questions. Being interrogate whether he has corresponded with either of those Gentlemen since he went to Dundee, he declines answering any question; and being shewn a part of a letter, or writing, and being asked, whether it is of his hand writing, and whether the name, F. Palmer thereto, is of his hand writing, declares, it is like to his hand writing and subscription, and which writing is marked, as relative hereto; and being shewn two pieces of writing, or part of a letter, now tacked together, and asked whether it is of his hand writing, he declines answering the question, which pieces of writing is also marked as relative hereto. And being shewn a writing, dated, "Dundee, Berean Meeting-house, July, 1793," and

entitled thus, " At a General meeting of the Friends
 " of Liberty, they unanimously resolved to publish
 " the following address, to their Friends and Fel-
 " low Citizens." And being asked, if he ever saw
 this paper before, declines answering the question ;
 and being asked, whether the words at the top of
 said writing, " Berean Meeting-house, July 1793,"
 are of his hand writing, he declines answering the
 question ; and being asked by whom the said writing
 was wrote, with the above exception, after the
 date, he declines answering the question, and which
 is also marked as relative hereto, and being shewn
 the copy of a letter, referred to in the declaration
 of Alexander Morren, of the first inst. and asked,
 whether or not, he the declarant received a letter
 from Alexander Morren, of the like or a familiar
 import, he declines answering the question, and
 which copy letter is also marked as relative hereto,
 of this date ; and being shewn a printed paper, da-
 ted, " Dundee Berean Meeting-house, July, 1793,"
 and marked as relative to the declaration of John
 Morren, and Peter Duff, of this date, and being
 asked, whether he had ever seen any printed copy,
 or copies of said paper, he declines answering the
 question ; and being asked, if he corresponded with
 any person whatever, in Fyfe, or Perthshire, rela-
 tive to said printed paper, and in particular, with
 James Smeton, Wright in Newburgh, or had ever
 sent

sent him printed copies of said paper, he declines answering the question; and being shewn a letter, dated, " July 20th 1793," (signed) T. F. Palmer, and beginning with, " My dear friend," and being asked, whether said letter is of his hand writing, and was subscribed by him, and to whom it was sent, he declines answering the question; which letter is also marked as relative hereto of this date; declares that when last in Edinburgh, he resided with Mrs Donaldson, Old Assembly Clofs Edinburgh, and though he paid her off before he went to Dundee, part of his effects are still in the two rooms which he possessed in her house; and being asked whether before leaving Edinburgh, he gave to the foresaid Alexander Morren, any written or printed papers, he declines answering the question; and being asked whether or not he is acquainted, with James Mathew, Weaver in Dundee, he declines answering the question; all this he declares to be truth. And after the before written Declaration was read over to Mr Palmer, and being asked to sign his declaration, he declines to do so. And the aforesaid Mr Thomas Fische Palmer, being again called in before the Sheriff, and there having been shewn to him, the Petition of William Scot, Procurator Fiscal of the County, upon which the warrant for his apprehension was granted, of yesterday's date, and he having perused the same, the Sheriff asked him,

him, if he would now answer the questions formerly put to him, Mr Palmer, declined to make any answer to the questions, and added that it was not from any contempt of the court, and Mr Palmer also declines signing this addition, to his declaration.

Edinburgh, 3d August, 1793.

The said Mr Thomas Fische Palmer being again examined, and his Declarations of yesterday's date being read over to him, he was asked by the Sheriff Substitute, whether he still adhered thereto, or would now answer the questions that were there put to him; Mr Palmer answered, That it appears to him inconsistent with justice, to desire a man to answer questions which might criminate himself. That, from his ignorance of the Scots Law, he is ignorant of the tendency of the questions, and how far he might be implicated by his answers, which, and no contempt of the authority of the Sheriff, are his reasons for declining answering. And he declines to Subscribe this Declaration. This he declares to be truth. (Signed) HARRY DAVIDSON.

Witnesses present at the above Declaration,
William Scot, Procr. Fiscal, Joseph Mack, Writer,
and William Middleton, Sheriff-Officer.

II. Copy of writings contained on two separate slips of paper, found in A. Morren's house, and alluded to in the foregoing depositions.

Dear

Paper 1st.

Dear Sir,

I will thank your Brother to print three hundred copies, on a half sheet but not long ways like the last; but in the manner of a quarto, I think it may be contained in one half sheet. Destroy the copy, and do not let a soul know who wrote it. You may give Skirving 50, and Mr * * * * *

Paper 2nd.

* * * * *. We would have * * * * * thousand printed, on one half sheet * * * * * paper in pica print, that the * * * * * of it may be contained in the paper. * * * Mr Skirving calls let him have 2 or * * * or what he wants, the remainder sent to me by M^rFarlane with a bill of the expence.

On another part of this paper a signature "F. Palmer" remains.

III. The Scroll of a Letter from Alexander Morren, intended to have been sent to T. F. Palmer.

Dear Sir,

I Received your favour of the 5th inst. am very happy to hear of the progress of the Friends of Liberty in Dundee; I wish them success with all my heart. I hope this address will do good, as I think it most excellent. As you very prudently wish it kept secret, that the authors of it may not be traced, I have been thinking you should keep away
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the date from it, or the words at the head of it, of (Dundee Berean meeting-house, July, 1793.) and have for that purpose, and to know whether the paper and print please, troubled you with these few lines, which, if you please to answer in course, you can have the number wanted this week by Mr M'Farlane. I have called on Mr Skirving.

(Signed) ALEX. MORREN.

IV. Letter, signed T. F. P. to Jas. Ellis, Dundee.

In Edinburgh Jail.

Dear James,

I was imprisoned all last night, because I would not answer any questions put to me, and am now in the Sheriff's Chamber, waiting a second attempt.

Lest I should miss of Mr Bowker, I inclose the note of Mr Miles Bowker, his brother, last year he paid me on the streets of Edinburgh, 1l. 15s. thinking that was all, I thought, and said he was wrong at the time: the bill now shews that he owes me 1l. 10s. 6d. more. The bill will shew too for what purposes he received the money from me, now I believe near two years ago.

My Letter to Smiton, part of my Letter to the printer's brother, ordering them, are in evidence against me. They think James Mathew was the author. I have been permitted to see no one yet.

Was

Was not allowed bail last night, I suppose I shall
this morning.

Yours,

July 3, 1793.

(Signed) T. F. P.

V. Letter from Mr Palmer to Mr Skirving:

Dundee, July 9th, 1793.

Dear Sir,

I wrote to you some time ago, wishing to see Mr Wharton's answer, when it came to hand. M^rFarlane sets out on Friday, and if you deliver a letter or parcel on the Thursday, it will be time enough. I wish you would send me some of the books on the liberty of the press.

The Friends of Liberty have sent to Mr Morren an address to get printed. It was written by a common weaver, I think it admirable. We want a copy to be sent to all the Societies of the Friends of the People, if you will take that trouble. You may ask Mr Morren, Grocer, Luckenbooths, for 300 copies; if you wish to decline the trouble, send me a paper with the address of each Society, and take 50 or 100 for the use of Edinburgh.

I would have you write to Mr Roberts, writer in Forfar, he has long had money by him for the use of the Convention. You may apply at the same time for the payment of an advertisement in the Chronicle and the Gazetteer.

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The Friends go on here with some degree of spirit, they have introduced the practice of reading letters, extracts, and small pamphlets, and then enforcing them by argument, which seems to be likely to produce much good.

Let me hear from you by the return of the Carrier, and tell me all the political news with you. Dudhope Castle, close by this town, is going to be converted into Barracks, to keep down any efforts for our freedom. A Ship-master just come from Glasgow, says nothing was ever like the distress at Glasgow, that while he was there two men dropt down dead in the streets, famished for want of food.

Yours, with best remembrance to all friends,

(Signed) T. F. PALMER.

VI. Letter to James Smiton, Newburgh, signed T. F. Palmer.

My dear Friend,

If I was severe in reproof it was far from my intention, I would not on any account give you pain. The account you give of the pamphlets is curious. They shall soon be replaced, when I can get them in. Have you a copy of the letters to Philosophers? I send you some addresses written by a common weaver, some Wharton's speeches, and one incomparable address on Barracks.

I will

I will send you by and by a book on America; my friend if you could but mustre cash enough to go with me I could almost trust you, to live my days with you. James Ellis, David Hughes and family talk of going with me. Dr Priestly cannot sleep quietly in his bed owing to the unceasing persecutions of the High Church Party, and he is going also, his four sons are there. He has been obliged more than once since he has been at Hackney to leave his house lest he should be burnt alive.

The patriots have defeated the rebels at Nantz, 8000 killed 700 taken prisoners.

Have you not Cooper's Pamphlet, I mean his answer to Burke?

John Ballingall was here, went away on a Sunday, never called, and never meant to worship with us. I heard Pirie to my no small entertainment, it requires some singenuity to be so excessively absurd. Farewell, yours,

July 20, 1793.

(Signed) T. F. Palmer.

I have got three copies of the address to Protestant Clergy to sell. If you or others have a mind to purchase a copy of Letters to Philosophers I will order it from London. Both pamphlets are one shilling each.

* * * When this letter to James Smiton was read in Court, Mr Palmer asked the witness, what

was the nature of the pamphlets recommended in his letter.

Smiton. One of them was religious, the other political, viz. Horne Tooke's Trial.

Pannel. Of what nature is the letter to Philosophers.

Smiton. Religious.

Exculpatory Evidence.

William Stewart, Deponed, That he lives in Dundee, and knows two Societies; that, he is a member of the Society of Friends of Liberty; That, he knows Mr Palmer, who was a member there some time; that he (the witness) was a member before him; that he knows of an address drawn up by the Society; that he and others met Mr Palmer in Methodist's close one evening, and urged him to become a member; that the committee met soon after, when a Draught of the Address was laid on the table, and Mr Palmer dissuaded them from printing it; that in the general meeting he advised them to print it in the Newspapers; the witness believes he meant by this to save expence.

George Luke, Deponed, that he knows of two Societies, and belongs to that in the Berean Meeting House, of which he is Treasurer; that he recollects an address being proposed to be printed; that the subject was debated in the Society; That Mr Pal-

mer

mer took part in the debate, and objected to its being printed ; that he also knows Mealmaker.

The evidence being closed on both sides,

King's Advocate Then proceeded to address the Gentlemen of the Jury. He said that in discharging this part of his duty, it became his province to state the evidence that had been adduced before them, in support of the charge libelled. He supposed that in one point there would be an universal concurrence of sentiment, viz. that this cause was of the utmost importance to the country in general, when the station and condition of the pannel at the bar was considered, and that connected with the *consequences* of this verdict, the Jury, he said, would readily see the importance of the task before them. The crime charged is *Sedition*, consisting in writing and circulating Seditious Papers, in opposition to the existing Government of the Country, calculated to raise a ferment in the nation, and to excite popular fury. The offence, he said, he felt warranted in considering, as standing foremost in the list of human crimes. For our own experience, and the history of our Country, and that too of a very modern date, have established this point, that when once the people are roused, and that on political subjects, there is no violence however great, no outrage however wild, they may not be led to commit. The author or promoter of Sedition, ought

ought therefore to be held as the author and committer of all these crimes which sedition produces; and therefore, guilty of an offence, of that atrocious nature; which the law of every civilized state, punishes in the severest manner. It is, said he, in the memory of all who hear me, that nearly about twelve months ago, seditious principles were disseminated, and anxiously, carefully cultivated, in every corner of the kingdom. In our sister kingdom, books, pamphlets, &c. were circulated, teeming with every falsehood, that *perfidy*, I may say, *treason*, could hatch, to raise, to stimulate the people to sedition. One of these pamphlets was peculiarly distinguished, as levelled against the private character of the most eminent personage in the state, even that of the FIRST MAGISTRATE himself. And in Scotland, the same spirit prevailed, not only by associating for *Reform*, which was the catch-word on the occasion, but by riotous meetings, which levelled their efforts, even against personal safety; and I will add, against that of *one distinguished Character*, whom this Country does, and will long acknowledge, as its greatest Benefactor. These disorders created universal alarm; it was feared, and with reason too, that disturbances similar to those which have overwhelmed France, might be effected here—Fortunately, he said, their spirit was, by timely exertion, if not extinguished, at least so far subdued,

subdued, as that the more forward leaders in the band became much less industrious in the business. The wisdom of the nation, and of the better and more respectable part of the community, saved the country then. The voice of the people was heard.

After so general a display of the sense of the nation, it was not supposed, that any man would be so mad, as again to renew such attempts; but this day's evidence, Gentlemen, demonstrates to you, that some such there lately were. What the Pannel at the bar formerly was, or what line of conduct he pursued, I do not wish to enter upon, farther than to observe, that when the association he belonged to is considered, and the rank and character of the company he selected as companions is kept in view, it must impress with no very favourable opinion of his intentions. Nor will it turn out to be a circumstance in his favour, that he is by profession a *Clergyman*; but a Clergyman of that description, whose principles are as hostile to the established Religion of his Country, as to the established Government of it; he does not however stand at your bar for his religious principles.

Such, Gentlemen, said he, is the nature of the offence; and you will also keep in view the probable effects which the verdict you are this day to pronounce, will necessarily have on the minds of the people. Your verdict will not pass unnoticed, it
will

will be heard of in every corner of the Kingdom ; in attending therefore to this cause, you are discharging a necessary duty, not only to the part of the Country where you more immediately reside, but to the Kingdom at large ; nay, to the Government and Constitution of the Country. A Government, and a Constitution, which have been often assailed, and have withstood many a shock.

The Charge, Gentlemen, appears to me to be threefold ; first, as to the writing and composing of the paper in question ; secondly, the printing, or causing it to be printed ; thirdly, the circulating or causing it be circulated. You are therefore, Gentlemen, to judge of the evidence, and to determine by your verdict, whether the Prisoner at the Bar is not the offender in all of these points. The Court has stated to you, that it is your province not only to judge of the facts libelled, but also of the Paper itself, whether it is seditious or not. For, before you, Gentlemen, can judge in this cause, as to the guilt or innocence of the Pannel, it is necessary to determine upon the nature of the Paper itself ; because, if the Paper is not seditious, then no criminality can be attached to the writing, publishing and circulating such a Paper. When the relevancy of this Libel was pled, you heard a long strain of reasoning on this point ; some things then advanced, I must take notice of. In the first place,
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it has been now, as on all similar occasions, advanced as an argument, and a very popular argument it is, that the liberty of the Press may be affected by the issue of such a Trial. After what you heard on this head, there is little occasion for me to enlarge upon it; few words will be necessary to satisfy you, that the liberty of the Press has no connection with the present question; such an assertion is as ridiculous as it would be to advance, that the Imprisonment and Trial of an Highwayman, or Robber, is hostile to personal freedom. But, as in the one case we may safely say, there could be no personal freedom whatever, if robbery were to pass unpunished; so, in the other case, there could be no *real* liberty of the press, if sedition is permitted to pass unpunished. If then this paper is seditious, the liberty of the press, so far from being infringed by this Trial, will be strengthened by it.

With regard to the different quotations from speeches and pamphlets, which the learned Gentleman read, and alledged to be as strongly expressed as this Hand-bill, they are totally inapplicable to the case. Let us suppose, Gentlemen, that all these extracts were genuine, (by the way you will remember that many of them were read from the Morning Chronicle and Edinburgh Gazetteer) and all these speeches were actually delivered, still, are they inapplicable to the present question. Although

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freedom of argument and latitude of speech, are permitted within the walls of the British Senate, still the same liberty would be extremely dangerous, if permitted among the people at large: Such language in Parliament is addressed to men who have knowledge to weigh, and judgment to resist the false impressions, which such speeches are calculated to make: but addressed to the lower class of the people, the ignorant, and the illiterate, such language becomes dangerous indeed; such arguments come with a specious appearance, which *they* are not capable of examining.

In considering, Gentlemen, whether this paper is, or is not seditious, I do humbly apprehend, it is impossible to peruse it without being satisfied, that it is written from the worst of motives. It breathes sedition throughout. It represents the people as in slavery—it calls them to rise.—It misrepresents a just and necessary war.—Such language addressed to the lower classes of the people, who are strangers to the nature and principles of Government, what effects can it produce, but to stimulate them to acts of violence, yea to destroy the very Government itself? IS NOT THIS, Gentlemen, SEDITION? If they are taught to believe that they are enslaved by Government, will they not rise to exterminate those rulers who enslave them? I leave to your consideration, Gentlemen, whether this Hand-bill may
not

not only be considered seditious in itself, but written for seditious purposes. Nay the Pannel at the Bar, in the steps which he takes for the circulating of the paper, evidently demonstrates, that he thought it—he *knew* it to be seditious; if not, why circulate it in the clandestine manner he did? but indeed the paper itself leaves us no room to hesitate as to what were his intentions.

Mr Burnet next proceeded to run over the evidence, upon the three different points as he had formerly stated them; he demonstrated, that from George Mealmaker's evidence, corroborated by the concurring testimony of several others which he mentioned, it was evident that the Pannel at the Bar, must be held as the writer of this paper, *in the eye of Law*; for Mealmaker deponed, that at the first committee at which Mr Palmer attended, he (Mealmaker) had only produced what he called *the first part of the address*, but which may properly be considered as a rough draft of it; this rough draft was entrusted to Mr Palmer's charge, for the purpose of correcting, &c. It was proved by many witnesses, that the Pannel at the Bar had this paper in his possession, from the day on which the committee met, untill the next general extraordinary meeting; that when the Pannel produced it there, it was altered and corrected, which fully proves what I before stated, said he, that, in the eye of Law, this Pannel

at your Bar, must be held as the author. And indeed, Gentlemen, when the stile of this paper is examined, and the talents of Mr Mealmaker considered, it will not easily be believed, that a Journeyman weaver of his talents and education (look at the writing of his subscription) could have produced any such writing. The stile of it abundantly evinces the author to have been endowed with a liberal education. That Mealmaker wrote part of it, perhaps a great part, I am not disposed to deny, but the Pannel taking it under his charge so long, and altering the composition we know not how far, he must be held as the writer. It is true, we have heard, that he laboured in the general meeting to soften the expressions of this paper; But what does this amount to? only a demonstration of the criminality of his intentions. These ignorant deluded people knew not their danger; the Pannel did, therefore to avoid the consequences which he knew might follow, (not that he in other respects disapproved the strength of language) he laboured to soften the expressions. All this tends in my mind, *said he*, to establish the pannel, as the writer of this paper, and to demonstrate his criminal intentions in doing so; but should you however hesitate in considering him as *the Author*, you surely can entertain no doubt as to his causing it be printed, and circulating it when printed. Fatigued, and unwell, I feel unable to
 proceed;

proceed; fortunately this part of the evidence at least, needs not my assistance. The evidences of Morren the Grocer and Morren the Printer, with the papers found in Morren's House, leave no question as to the printing. The testimonies of Leslie and Miller, the Booksellers in Dundee, together with the evidence of, and Letter from Mr Palmer, addressed to Smiton at Newburgh, put the charge of circulation beyond doubt. With these observations, Gentlemen of the Jury, I leave this cause in your hands, and have no manner of doubt, you will bring in such a verdict, as will exonerate yourselves, and serve your country.

Mr Clarke then proceeded to state, as he said, a few remarks in behalf of the pannel.

(It may be proper to observe, that any account we can give of this gentleman's speech, must be exceedingly defective; he frequently spoke so low as scarcely to be heard by us; and we beg that any imperfections may be imputed to this cause, and the presence of the crowd.)

You are bound, said he, Gentlemen of the Jury, fairly to try my Client at the bar. And since this is your duty, I must be allowed to observe, that nothing has greater effect to prevent impartiality, than political prejudices. Parties, we know, have been running high, said he; and when we know that persons entertain certain opinions, it is difficult, extremely

tremely difficult to divest ourselves of prejudice. This Country was lately involved in party ; many, perhaps a great majority, thought in one way, and a certain number thought in another: I am satisfied that I now address a sensible, an enlightened, a well informed Jury ; I am justified, however, in warning even such a Jury, against the effects of prejudice. I must therefore be indulged in tracing before you the History of Reform. As also the strong language which has for many years back been indulged on political subjects. If we go no farther back than the long and calamitous American War ; it was at first, we all know, a very popular one ; but when it had continued sometime, the opposition both in Parliament, and without doors, indulged themselves in a latitude of language very strong indeed. You must all have read the Letters of that celebrated Libeller, Junius—Yet, during the American War—terms more abusive—and language more violent was adopted, than even that of Junius. The opposers of the American War, and these soon became almost all the Country ; expressed their opinion in a very nervous manner. This Hand-bill, we are now called upon to consider, is weak, compared to the terms in which that now unpopular war, and the Ministry who conducted it, were abused ; the justice of the war itself was stigmatized in strong language, as a war waged against a people fighting and struggling for
their

their liberty. This war gave birth to many and various plans of Reform. The Legislature was attacked as corrupt, and reform inculcated.

The first plan of Reform was proposed in the House by Mr Burke, and after much labour, he at last actually obtained a reform. In consequence of this, many places were abolished, and the influence of the Crown considerably diminished; for it was openly and avowedly maintained, that the influence of the crown had now extended over, and was felt through the whole nation, so as in fact to threaten eventually, to swallow up their liberties entirely. It was warmly urged, that when the minister could find supplies, for the support of such a war, without the voice of the nation, it must be wholly owing to corruption. Mr Burke was soon followed by others, who began to examine into the nature of elections, and to consider the representation of the people in Parliament, as very unequal and unfair; a few people had the entire command of Parliament. Whenever a reform was introduced into the houses of Parliament, it was always and uniformly defeated by majorities. The object however was pursued, by means of Pamphlets and Publications. Plans of reform, became thus to be universally agitated, and supported by the most illustrious persons in the kingdom, for rank, fortune, and talents. The Duke of Richmond, Mr Pitt, the present

present minister himself, and even Mr Dundas, patronised plans of reform. This went on, and reform was not then thought so detestable a word, nor to be the introduction to all evil, as it is now.— Previous to the French Revolution, language like this was unheard; no argument was heard of against reform; all men, of whatever principle, declared then, what many think still, that a moderate reform would be useful, and tend to strengthen the constitution. All difference of opinion consisted in questioning the propriety of the time, or was occasioned by the fear of going too far. But the French revolution gave birth to new ideas on this subject. A mighty monarchy, having in itself the utmost extent of power—suddenly overwhelmed! All the nations in the world, were in a manner stupified. This revolution however, when reflected upon, gave general and universal satisfaction; the first, the wisest, the best men rejoiced at it—all ranks of men rejoiced—but above all, liberal and benevolent minds rejoiced. Unfortunately, new events took place—factions, frauds, and villanies, did away the glory of this revolution; anarchy succeeded; notwithstanding of this, the friends of the French revolution, are not without hopes that these factions may yet subside, and that Revolution prove finally useful to human affairs. Many now think, that French affairs are desperate; but the French did not
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lose their friends in this Country, all at once; they lost them gradually, almost imperceptibly; and still, as I have hinted, have they some friends in this country. Now, Gentlemen, added Mr Clarke, you will know the effect which these affairs have had, upon the sentiments of many. In Parliament, the violence of party has raged from the difference of sentiment as to French politics; party spirit separates even the closest political friends. During this unfortunate ferment, writers appeared, who took hold of the doctrine of the rights of man, which they basely employed to pollute vulgar minds. The opposite party awakened; difference of opinion raged; and matters run so high, that parties could scarcely speak to one another; nay, every man was almost afraid to communicate his sentiments on political subjects. Let us look back, Gentlemen, said he, to the most violent days, and we shall not find an instance of parties running so high; we have heard, that the existence of Government itself was threatened. Both parties were equally keen, and equally violent.

While matters were in this situation, the King's Proclamation appeared, stigmatizing certain writings on French Politics, evidently alluding, as was generally understood, to Payne's Work. Such had been the Licence of the Press, if I may so call it, that this book had been universally circulated

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through the Kingdom, nor was it ever supposed libellous; so little was this suspected, that different Societies through the Country, publicly advertised and recommended the Work; cheap copies of it were printed, circulated, and bought, with the greatest avidity. We all know it was a long time, before the public Prosecutor avowed, that the work was libellous.

Meantime the violence of party kept pace with French matters; and at length, the populace were supposed to be infected with these dangerous opinions. At this time, the arms of France were very successful—a sudden alarm was spread—people of property trembled; matters, it was thought, were here getting quickly into the same situation in which they were in France: I am addressing myself to Gentlemen of property, and you must have known, you must have felt, what I here state, that property was supposed to be in danger. I need not say how much this increased the violence of one party. The Friends of Reform grew warmer also.

Having thus far, Gentlemen of the Jury, said he, traced the history of Reform, let it be remembered, that I have done so, in order to warn you, against the effects of prejudice;—prejudice must run high against a man, who avowedly is a REFORMER.

But I shall next, Gentlemen, call your attention, to the question of the *legality* of a Reform in Parliament.

ment. Many hate all Reform; but is not this a hasty opinion. However hurtful Payne's Book may have been; however criminal to speak of overthrowing King or Lords; yet I have never heard, that any man would venture to affirm, that Reform, when prosecuted by people, even in a low sphere of life, is an illegal object. There have been many Plans of Reform; Mr Pitt, our present Minister, introduced a motion for Reform, into the House of Commons; and you will all remember the speeches of the Duke of Richmond, and the great Irish orator, Flood, upon this subject; surely they were never even *suspected* to be illegal; nay, a Reform in the County Election, is at present a subject in agitation; and, the present Lord Advocate himself, whose respectability of character every man in this House is acquainted with, and which I am happy to take this opportunity to express my sense of, lately appeared as a delegate in this cause. Nay, farther, Gentlemen, said he, is not a Reform in the Royal Burghs, a subject at present before the House of Commons. It is therefore vain to say it is an illegal object, if legal means are pursued to obtain it. I shall therefore, hold it as an irrefragable proposition, that a Reform is a legal object; and that any man can legally avow himself a Reformer, in as far as respects the equal Representation of the people, and the purity of Parliament. Gentlemen, it is not

your province, to judge as to the question of *expediency*; What you have to determine is, *Whether is it illegal?* An opinion has been advanced, that although such enquiries and opinions, are lawful to be followed out by people of a certain rank of life, yet the populace, the low, the ignorant, have no title to interfere; I am happy to observe, that this opinion has not been advanced to day; Law, Gentlemen, knows no distinction of persons; the greatest, are not more entitled to investigate this subject, than the meanest; the beggar, is entitled to do it, nay, a Society of Beggars, who have no other mode of subsistence than begging from door to door, would have an equal right to consider and investigate this subject, as a meeting of freeholders; the only question with regard to both Societies, is, do they prosecute the object by *legal* means?

Mr Clarke now read several very apt quotations, from De Lolme on the English Constitution, for the purpose of establishing the doctrines he had advanced, as to the title which every subject, of every rank, has, to investigate matters of government, as well as to petition the Legislature. He next adduced the opinion of Blackstone upon the same points; from which he inferred, that it was not the expediency of such enquiries, the Jury were to examine into, but the legality.

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He now proceeded to apply what he had been advancing, to the case of his Client. This Gentleman, said he, has been a Reformer, and a member of a small insignificant society in Dundee. Has this society been, on any occasion, taxed with French principles? No, the great object of their meeting, has been to obtain a Reform in Parliament by Petition; or, in a word, that same object, which so many in different situations, have been pursuing. Nor has it been advanced, that my Client has been in any degree tinctured with these wild notions. He, and the society with which he was connected, (you have it in proof before you), have been moderate in their debates, and manner of conducting their *business*, which, however inexpedient it may seem in your eyes, I again aver was *legal*. Let me caution you, Gentlemen, said he, on another point; you are to consider what this libel states, and to judge what part of it has been proved. I am a stranger in this part of the country, and a stranger to the witnesses; so that when I plead, I plead from the evidence before me.—What I would caution you against is this, you are acquainted with the country, and with the sentiments of the people; you suspect, perhaps with justice, the intentions of many among them; nay, *it may be*, you know that some of the witnesses actually entertain extravagant notions; but in judging of this evidence, you must

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lay aside what you know of these notions, and judge simply from the evidence before you.

Gentlemen, said he, you must next consider, the measures which this society pursue; however lawful the object, the means must be so also. I may observe, that it has never been questioned since the Revolution; that the subjects of Great Britain, have a title to discuss, and canvass the measures of Government; and it clearly appears to me that every word in this Hand-bill respects the measures of Government, and them only.

Notwithstanding the many panegyrics we have heard on the British Constitution, as vested in King, Lords, and Commons, it is agreed on all hands, that even this form of Government, would be inadequate to the purposes of Civil Liberty, were it not for the liberty of the press. The sentiments of De Lolme, and Hume, you have already heard on this subject; Hume plainly supposes, nay speaks of it as the great advantage resulting from the liberty of the press, that by the means of printing in cases of danger, alarm can be expeditiously conveyed, from one corner of the kingdom to the other.

Again, Gentlemen, said he, you must distinguish between censure against Government, and private censure or scandal. Written scandal, though true, must be for a bad purpose; it leads to a breach of the peace. Verbal scandal is totally different; you
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may prove the truth of what you advance; therefore it is, that any attack against the Prime Minister, in his private capacity is actionable, but in his ministerial capacity this is not the case. It certainly follows, that it is not sufficient to prove such a paper as this libellous, that what it contains is not true; calumny on matters of Government is no libel, till it tends to a breach of the peace. For, were not this the case, the question would then be, is this truth or falsehood.

The liberty of the Press, Gentlemen, must be acknowledged and supported. And this liberty in one respect consists in this, that it is not criminal to publish a censure on Government, although the ground of this censure be false. We have heard a definition of the liberty of the Press from the Bench, from which I must humbly beg leave to dissent; that the liberty of speech, and of the press are in all respects of the same nature; this holds true in private censure, but in public censure it is totally different. It is a liberty to censure the measures of Government, and you must have at least, criminal intention before your censure amounts to a crime. It is needless, said he, for me to produce you instances of the liberty of the press so exercised. Almost every Newspaper, almost every political tract, is an example; and why are not such publications prosecuted?

prosecuted? is there—can there be another answer but this? the liberty of the press protects them.

This differs materially, from the comparison you heard stated, with regard to murder. The simple question is, is it a Libel? and, in considering this question, can there be a fairer argument than to say, that millions of pamphlets, expressing the same sentiments, and expressed in equally strong language; have passed unnoticed; now, if all these are libels; what sort of justice have we in the country? Has the public prosecutor betrayed his duty in all these instances, in order to wreak his vengeance more effectually on Mr Palmer, my Client?—The truth is, we are not to use the liberty of the press, as an instrument of sedition; but measures of Government may be stated as we please, in allegations true or false; or couched in what language we please; if so expressed, as not to stir up sedition. There is one circumstance in the history of this country, which I shall beg leave to mention. There was a long stand made against the establishment of a standing army, the measure however took place, and has been prosecuted, till the standing army in this country in the time of peace, has amounted to a very great number. During the dreadful riots of 1781 which had so nearly overturned the executive Government of the country; notwithstanding the dreadful lengths to which the riots went, a few regiments

giments brought up from the country speedily restored quiet. My late worthy friend, Dr Adam Smith, in his much valued work on the wealth of nations,—strongly asserts, that the great use of a standing army in times of peace, is, to defend the liberty of the press; so that should the abuse of that liberty at any time produce tumult, the executive Government of the country, may be supported, and quietness obtained by means of a standing army.

It now remains, said he, that we should examine the language of this Hand-bill, whether it is libellous or not; because if it is a libel, it must be so from the manner of expression; the same matter calmly stated, we have demonstrated to be no libel. I must therefore beg leave to state the language adopted in a multitude of political pamphlets on such occasions. I hold, said he, a pamphlet in my hand, which has been widely circulated through the country; and for which could the author have been prosecuted, it would have been done. (Here Mr Clarke read several long extracts from a pamphlet entitled, “A Letter to Mr Pitt”) compare, said he, what I have now read with this Hand-bill, it will not bear comparison. I must farther be allowed to remind you, said Mr Clarke, that the Parliamentary debates, when circulated in a Newspaper, are as great libels as Hand-bills. What is no libel in Parliament, or in a peti-

tion addressed to Parliament, becomes libellous whenever circulated among the people. Mr Clarke again referred to the proceedings, in the case of the printer of the speech of the Archbishop of York, as illustrative of what he had now advanced.

There is now, said he, an acknowledged difference, betwixt public and private character: Mr Pitt himself lately alluded to this distinction, when he spoke of his conduct as *a Minister*, and as *a Man*. Thus have we seen, that this society was prosecuting a lawful design, the liberty of the Press is unbounded in matters of government, &c. What then was the purpose of this Hand-bill? Was there an intention of sedition? Or did this writing tend to promote this end? It is not sufficient to say, that it tended to raise discontent, this is the express avowed purpose of every such writing; it must be to effect violence, and seditious outrage, before it becomes libellous. Was it so? What violence was intended? A petition to Parliament. You heard all the witnesses state what they meant. Attend again to the averments in the Hand-bill itself; it is expressed in pithy, and strong language, but it contains nothing but what has been advanced, by Reformers of every class before. Having said this much in general, I have only now to request your attention, to the particular concern my Client is said to have had in it. He certainly was not the
author;

author; will the public prosecutor be allowed to contradict the uniform testimony of all the witnesses? It will, it must be admitted, that this weaver was the author of it, and that, when it was couched in much stronger language. My Client, you will observe, was against the publication; and when he could not prevent it, he laboured to soften the language of it. It is rather invidious to say, that he did this merely to avoid personal persecution. Mr Palmer might very naturally agree with the purport of this paper, although he might call in question the expediency of it.

I must finally draw your attention to the character of my Client; he thinks in a peculiar manner on every subject, whether religious or political. And you must not suppose him a person, who would regulate his mode of thinking as many would do.

With these observations, I leave him in your hands; and I hope, that God will direct you, to return such a verdict, as will absolve your own consciences.

Lord Abercrombie then proceeded to address the Jury. At this late hour, said he, and after the close, and fatiguing attention you have paid to this trial; I shall detain you but a little time, with a few remarks, upon the nature of this case, which, I confess, is a very serious one indeed. It involves in it two separate questions; First, Is this Hand-bill

libelled, seditious? Secondly, Has the Pannel been guilty of the writing, printing, and publishing of it, as the Indictment bears. In judging of the relevancy of this libel, you had occasion to hear the sentiments of the court, how far it appeared to them to be seditious; but neither our opinion, nor that of any counsel, is in any degree binding on your minds; it is your duty, Gentlemen, to consider and determine.

A plea has been set up, Gentlemen, in order to shew that this paper is not seditious, upon the ground, that in this country, every man has a right to canvass the public measures of government; but I hope, said his Lordship, in this canvass, no man has a right to commit a crime.—Has a crime been committed?—Have these measures of government, been legally canvassed? It is for you, Gentlemen, to judge whether such expressions, can be legally used; whether telling the people, *they are in chains, that the Government of the Country is adding daily new links to these chains, that the small portion of liberty they once enjoyed, is fast setting; whether calling them to rise, and gather round the Fabric of Liberty; with many other such expressions, can be considered as such a fair, legal discussion of public measures, as any subject of this Country is intitled to?—You have heard, Gentlemen, that reform is a fair object; but it remains with you to judge, whether such language as that contained in this paper, is most likely to pro-*

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more reform, or sedition. Universal suffrage, they never can enjoy; whether then is it legal to tell them they have such a right. The learned Counsel who spoke last, told you that I was under a mistake in what I stated as to the freedom of the Press; because of this right of canvassing public measures; but I aver, that in what I formerly stated on this subject, I was perfectly right; and that I am supported in what I then said, by the highest authority; because, although every man is entitled to canvass public measures, yet, if in doing so, he commits a crime, will the liberty of the Press screen him from the punishment of that crime? The liberty of the Press has therefore been most improperly introduced in this case; and, as I before stated, you have but two questions to consider; Is the Paper seditious? and, Has the Pannel been guilty?

There have been some circumstances mentioned, as tending to exculpate the Pannel, which I am sorry to say, led me to form very different conclusions. This paper was published, after the French Revolution, and all its horrors had taken place. The writings of Paine had poisoned the minds of the lower class of the people; after the country had been so universally alarmed—this was the time chosen for its publication. If you, Gentlemen, shall find the seditious nature of this paper established, your next consideration is, has the Pannel been guilty

guilty actor, or art and part, in writing, printing or publishing, this seditious paper. You must consider the evidence, whether he either wrote, or was concerned in the writing of it, and in like manner as to the printing, and circulating it; and if you find the facts, or any of them established, you must return him guilty, either in whole, or in as far as you find it proven. In like manner, if the proof appears to you defective, you must return him *not guilty*.

I will only shortly observe to you, said his Lordship, it appears to me material, that you consider the evidence of Mealmaker in a very particular manner. Mealmaker drew the first scroll of it, committed it to the keeping of the Pannel, who produced it revised and corrected at the General Meeting; this testimony is corroborated by most of the witnesses. It was said, that he took pains to soften the expressions; but Ellis says, he did so, although in his opinion, they were as true as the Gospel, &c. As to the question concerning the printing, you have it in evidence, that the pannel proposed at the general meeting, that it should be printed in the Newspapers; nay, that he actually received the price of printing the Hand-bills; the letters found in Morren's house, together with Morren's evidence, establish a complete proof, as to the printing. With regard to the circulating,
you

you have to consider the evidences of Leslie, Miller, and Smiton; I have heard no objection stated to the validity of any of these witnesses, and if so, the proof of circulating them is complete in my mind. You have heard of the purity of his intentions, nothing more than a moderate reform in view; as to this, Gentlemen, you must consider the tenor of the address, together with Mealmaker's evidence, who plainly said, that they had no second Petition in view; and that what they would have done, depended on circumstances; and I confess, I much fear, that if they had not been attended to, the conduct of this society would not have proved so pure as their intentions are said to have been. With these observations, Gentlemen, said his Lordship, I commit the Pannel to your Verdict, having no question, that it will be such as will exonerate yourselves, and prove serviceable to your country.

His Lordship having finished his Address, about 40 minutes past 10 o'clock at night, the Court was adjourned to 9 o'clock next morning; and the Jury was immediately enclosed, viz.

Charles Campbell of Lochdochart, Robert Stewart of Clochfoldich, James Stewart of Derculich, Thomas Sandeman merchant in Perth, David Laird of Strathmartin, David Anderson of Balgay, Colonel John Thomson of Charleton, James Calderwood Durham of Largo, James Lumfaine of Innergelly,
Alexander

Alexander Duncan of Castlefield; Patrick Lindefay of Coats, Alexander Cunningham of Pitcarthie, Alexander Wood merchant in Ely, John Fair writer in Colinsburgh, and Andrew White writer in Crail.

The Jury were appointed to return their verdict at 2 o'clock next day. At same time the Pannel was committed to Prison.

On Friday the 13th September at half past 2 o'clock the Jury returned the following

VERDICT.

At Perth, the 12th day of September, 1793.
The above Assize having enclosed, made choice of the said James Calderwood Durham, to be their Chancellor, and of the said Andrew Whyte to be their Clerk, and having considered the criminal Libel, raised and pursued, at the instance of his Majesty's Advocate, for his Majesty's interest, against Thomas Fische Palmer, Clergyman, sometime residing in Dundee, and commonly designed Unitarian Minister, present Prisoner in the Tolbooth of Perth, Pannel; and having heard the Interlocutor of relevancy, pronounced thereon by the Court; evidence adduced in proof of the Libel; and evidence adduced in exculpation of the Pannel; they all in one voice, Find the Address mentioned in the Libel, to be a Seditious Writing, tending to enflame the minds of the people; Find that the Pannel was art and part guilty in writing the said address, and that he is guilty of causing

causing the said address to be printed, and that he is guilty of distributing, and causing to be distributed, the said seditious and inflammatory writings. In witness whereof, their said Chancellor and Clerk, have subscribed these presents, in their names, and by their appointment, place and date as above.

(Signed) JAS. C. DURHAM, Chanr.

ANDREW WHYTE, Clerk.

The Verdict being recorded, *Lord Eskgrove* discharged the Jury, observing that it gave him satisfaction to see with what care they had executed the trust reposed in them; and he was persuaded, that the verdict they had this day returned, would prove a lasting blessing to the Country.

Lord Abercromby then proceeded to observe, that the Pannel at the Bar, had been convicted by his Country of a Crime of a very heinous nature indeed; it now became the province of the Court, to say what punishment should follow upon this conviction. His Lordship said, that it was with regret, he felt obliged to observe, that the crime had been aggravated by many peculiar circumstances; the time it had been committed deserved particular notice; the spirit of discontent, which had some months before so violently raged, had now subsided; the virtuous exertions of men of every rank, in every corner of the Country—the voice of universal loyalty—had effectually subdued it. In July

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last the Country was in quiet and in peace ; all alarm had ceased ; I feel it, and when I feel it, I must express it, that the object of this Hand-bill, seemed to be, to raise and foment Sedition. Again, there is another circumstance, which must impress the mind in a very forcible manner ; the situation in life, and the character of the Pannel ; a Clergyman, whose business it was to instruct in religious and moral duties, becomes an Exciter to crimes. It is a matter of melancholy reflection, to see a man of liberal education ; a man of the station, the talents, and knowledge of the Pannel, associating with such Societies, as that of the Friends of Liberty in Dundee, whose Presidents, Treasurers, &c. appeared this day at the bar ; entering into such societies or clubs ; and for what purpose ? this we may judge of, from his declaring with regard to the Hand-bill libelled, and that, even when expressed in stronger language than it now is, That he believed every word of it to be as true as the Gospel ; and that it was innocent. It is no wonder, said his Lordship, that the minds of the lower class of people should be poisoned, when such men as Mr Palmer, descend to instill such principles into their minds. When we see him in this Society, and there receiving the money which was the fruits of their honest industry, (and which ought to have been applied to the support of their families) to pay the printing of such a paper as this, which

which this respectable Jury has declared to be seditious, his Crime is much aggravated.

Unfortunate as this Gentleman is, he is fortunate in one circumstance, That this writing and the art with which it was circulated, have not led these deluded men farther; had they proceeded to a certain extent; had tumult—had the slightest insurrection happened—he, and they, would have been chargeable with High Treason. He then would have had to answer for the blood of these men, men deluded by him.

I am unwilling to load this unhappy Gentleman, with all the aggravations that might be mentioned; but I must state, that the defence on which he rested; the defence set up for this writing, I consider, said his Lordship, as an aggravation. *That because every subject of this kingdom has a title to canvass the public measures of government, therefore it shall be lawful to write, print, and paste up seditious writings—Nay, Treason itself, for if public measures only are canvassed there is no crime.* Without detaining the Court farther, I shall therefore beg leave to propose, as the mildest punishment adapted to this case; that the pannel be recommitted to prison, and there remain untill such time, as a proper opportunity shall occur for transporting him, to such place as his Majesty shall appoint, for the space of seven years;

with certification that, if he return within that time, he shall suffer death.

Lord Eskgrove perfectly coincided with the sentiments just expressed. I cannot but mention, how much, said his Lordship, I also lament, that in his defence, doctrines have been advanced, which I heard with astonishment. *That it is lawful to stir up Sedition, even by falsehood; to assert our condition to be worse than it is, &c &c;* is a false attack on King, Constitution, and Parliament; and still our laws are so defective as that this shall pass with impunity. It is a doctrine equally dangerous, that because such crimes have past unpunished, therefore they should always pass. It is with regret I could think of such a person, as the Pannel at the Bar, being subjected to punishment; but the higher the situation, the greater the crime, and consequently the greater the punishment ought to be. This crime nearly invoked death; but his Lordship was happy this was not in question at present; if we shall only banish this seditious incendiary from Scotland, he retires to England, to spread his seditious doctrines; just as if one should catch a man with a lighted torch in his house, and in place of extinguishing his torch, and removing him at a distance from his premises, he only sends him to his Father's, or his Brothers' house. I therefore cannot reconcile to my own conscience, any other sentence but transportation;

tion; long before seven years are expired, I hope all discontents in this country, will be at an end; and this unhappy Gentleman will be sensible of the error of his ways.

While the sentence was recording, Mr Palmer asked their Lordships' permission to say a few words; which being granted, he addressed the Bench in a very pathetic, and feeling manner to the following purport.

That he could appeal to the Searcher of all hearts, for the sincerity of his intentions. His life, he said, had been employed in disseminating, what he understood to be moral truths—truths of the highest importance to mankind. His friends knew with what ardour, he had prosecuted this object, even at the expence of sacrificing his worldly interests.

During the late great political discussions, he said, that it was impossible for a man of his sanguine disposition, to remain unconcerned; he felt, as all men felt, the general impulse. Politics he considered as a great branch of morals; containing in them our duty to our neighbour. Would our superiors do as they would be done by, our Petitions would be granted,—our grievances redressed. My politics, said he, are those of common justice, benevolence, and humanity. These considerations induced me to connect myself with the Society of the Friends of Liberty. I thought that Parliamentary Reform,

form, was intimately connected with human happiness—with the establishment, and security of the British Empire. With this view, as God is my witness, I joined that Society of Weavers, and Mechanics, as your Lordships call them; and to gain such ends, had I any connection with this Hand-bill. The test of this Society, and their endeavours so far as I have known them, have all been confined to this one point—Parliamentary Reform.

This is not the first time, my Lords, I have suffered in labouring for the benefit of others. I have borne shame, odium, disgrace, and the loss of fortune; I hope it has been my utmost ambition, and that all who know me will attest, that the tenor of my life has been to increase human happiness, in as far as I could. I am again called upon to suffer, I think, for the cause of mankind, and of human happiness; and I hope to bear my sufferings with fortitude, nay with cheerfulness. My sufferings will not be lost; I trust, by the blessing of God, they will prove efficacious in accomplishing what I have laboured for. Perhaps, my Lords, said he, I am out of time in mentioning, that three witnesses were omitted to be called, who would have sworn, that on the sixth of July last, George Mealmaker declared he wrote every word of this address, independent of any one else. (Mr Palmer mentioned

mentioned the names of these three witnesses omitted.)

The Clerk then read the
SENTENCE.

The *Lords Eskgrove and Abercrombie*, in respect of the foregoing Verdict. They, in terms of an act of Parliament, passed in the 25th year of his Majesty's Reign, intituled, "An act for the more effectual transportation of felons, and other offenders, in that part of Great Britain called Scotland;" *ordered and adjudged*, and hereby *order and adjudge*, that the said THOMAS FISCHER PALMER, be transported beyond the Seas, to such place as his Majesty, with the advice of his Privy Council, shall declare and appoint; and that for and during the space of *Seven Years*, from and after this date; with certification to him, that if after being so transported, he shall return to, and be found at large, within any part of Great Britain, without some lawful cause, during the space of seven years, being thereof lawfully convicted, he shall suffer death, as in cases of felony, without benefit of Clergy, by the Law of England, for which this shall be a sufficient warrant to all concerned. And further decerned and adjudged, and hereby decern and adjudged, the said Thomas Fischer Palmer, to be carried from the Bar, back to the Tolbooth of Perth, therein to remain, till an opportunity

portunity offers of transporting him in manner above mentioned; requiring hereby the Magistrates of Perth, and Keepers of their Tolbooth, to receive and detain him accordingly.

(Signed) &c.

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